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JOURNAL

OF THE

Council of Censors

OF THE

STATE OF VERMONT,

AT ITS SEVERAL SESSIONS HELD IN

MONTPELIER,

1869.

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PUBLISHED BY ORDER OF COUNCIL.  
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1869.

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# JOURNAL.

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## FIRST SESSION.

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SENATE CHAMBER,  
Montpelier, Wednesday, June 2, 1869. }

THE Council of Censors, elected on the last Wednesday of March, A. D. 1869, convened in the Senate Chamber, at Montpelier on the first Wednesday, being the 2d day, of June, 1869, at 10 o'clock, A. M., when the following named members appeared and took their seats, to wit :

HENRY LANE,  
J. B. HOLLISTER,  
WILLIAM HARMON,  
JASPER RAND,  
H. HENRY POWERS,  
J. R. CLEAVELAND,  
NATHANIEL W. FRENCH,  
CHARLES C. DEWEY,  
CHARLES K. FIELD,  
TIMOTHY P. REDFIELD,  
CHARLES REED,  
JOSEPH W. COLBURN.

The Council was called to order by Mr. RAND, and on motion of Mr. COLBURN,

CHARLES K. FIELD was elected President *pro tem.*, and on motion of Mr. REED,

H. HENRY POWERS was elected Secretary *pro tem.*

Mr. RAND introduced the following resolution, which was read and adopted :

*Resolved*, That the Rules of the last Council be the Rules of this Council until new ones are adopted.

On suggestion of the President *pro tem.*, the members of the Council presented their credentials to the Secretary.

On motion of Mr. LANE, Mr. COLBURN was admitted to his seat as a member of the Council without producing his credentials.

On motion of Mr. REED, Mr. HARMON and Mr. HOLISTER were admitted to their seats as members of the Council without producing their credentials.

On motion of Mr. DEWEY, Mr. RAND was admitted to his seat as a member of the Council without producing his credentials.

Mr. DEWEY introduced the following resolution, which was read and adopted :

*Resolved*, That a committee of three be appointed by the Chair to prepare rules for the government of the Council.

Mr. REED introduced the following resolution, which was read and adopted :

*Resolved*, That the Council proceed at 2 o'clock this afternoon to elect a President and Secretary of the Council by ballot.

Mr. LANE introduced the following resolution, which was read and adopted :

*Resolved*, That the President request some clergyman of Montpelier to attend on the Council as Chaplain, and that the morning sessions of the Council be opened by prayer.

The President announced as the Committee to prepare Rules for the Council, provided for by the resolution of Mr. DEWEY,

Mr. DEWEY,  
Mr. REED,  
Mr. HARMON.

Mr. RAND introduced the following resolution, which was read and adopted :

*Resolved*, That the Sergeant-at-Arms be requested to attend on the Council during its session, by himself or deputy.

On motion of Mr. LANE, the Council adjourned until 2 o'clock this afternoon.

## AFTERNOON.

The Council proceeded to the election of President and Secretary, agreeably to a resolution adopted at the morning session. The ballots for President having been taken, examined and counted, Mr. COLBURN and Mr. FRENCH acting as tellers, it appeared that

HON. CHARLES K. FIELD  
was elected President; and the ballots for Secretary having been taken, examined and counted, Mr CLEAVELAND and Mr. LANE acting as tellers, it appeared that

ARTHUR CULVER,  
of Royalton, was elected Secretary.

Mr. DEWEY, from the Committee on Rules, submitted the following report, which was read, accepted and adopted :  
*To the Council of Censors:*

The Committee appointed to prepare Rules for the government of the Council, respectfully submit the following, and recommend their adoption :

## RULES.

I. The Council shall meet daily (Sundays excepted) at 10 o'clock in the forenoon, and at 2 o'clock in the afternoon, until otherwise ordered.

II. The President shall take the chair at the hour to which the Council stands adjourned, and call the Council to order, and direct the members to the transaction of business.

III No member, without leave first obtained, shall absent himself from the sessions of the Council.

IV. Upon the demand of a member, the yeas and nays shall be taken upon any pending question, and recorded upon the journal of the Council.

V. The Standing Committees of the Council shall be as follows :

1. A Committee consisting of three members, whose duty it shall be to inquire whether the Constitution has been preserved inviolate during the last septenary; which shall be called the *Committee on the Powers of the Constitution*.

2. A Committee consisting of three members, whose duty it shall be to inquire whether the legislative branch of the government has per-

formed its duty as guardian of the people, or has assumed to itself or exercised other or greater powers than are conferred upon it by the Constitution, and particularly whether the laws have been duly executed ; which Committee shall be called the *Legislative Committee*.

3. A Committee consisting of three members, whose duty it shall be to inquire whether the Executive Department of the government has performed its duty as guardian of the people, or has assumed or exercised other or greater powers than the Constitution confers upon it ; which Committee shall be called the *Executive Committee*.

4. A Committee consisting of three members, whose duty it shall be to inquire whether the public taxes have been justly laid and collected, and in what manner the public money has been expended ; which Committee shall be called the *Committee on Taxes and Expenditures*.

VI. The committees shall be appointed by the President ; but such appointments may, on motion of a member, be overruled and the vacancy filled by the Council on nomination ; and members may be added to a committee by vote of the Council.

VII. Motions, on request of the President, shall be reduced to writing by the member making the same.

VIII. A motion to adjourn shall always be in order.

IX. Motions and resolutions shall have precedence as follows :

1. To dismiss.
2. To postpone to a day certain,
3. To lie on the table.
4. To commit.
5. To amend.

Respectfully submitted,  
CHARLES C. DEWEY,  
*for the Committee.*

Mr COLBURN introduced the following resolution, which was read and adopted :

*Resolved*, That a committee of three be appointed to take into consideration the expediency of changing the mode of amending the Constitution, so as to refer to legislative action for propositions, and refer directly to the people for a final decision, as more appropriate and less expensive than the present system, and more in accordance with republican ideas and democratic equality.

Mr. RAND introduced the following resolution, which was read and ordered to lie :

*Resolved*, That the Committee on the Powers of the Constitution be directed to inquire into the expediency of so amending the Constitution of this State as to extend the right of suffrage to all the citizens of this State without regard to sex.

Mr. DEWEY introduced the following resolutions, which were read and adopted :

*Resolved*, That a committee of three members be appointed to inquire into the expediency of so amending the Constitution as to enlarge the term of office of the Judges of the Supreme Court, and to fix their salaries ; and also to inquire into the expediency of changing the mode of their election.

*Resolved*, That the same committee be also instructed to inquire and report as to whether evils and defects exist in the present chancery system of the State ; and whether the action of this Council under the provisions of the Constitution may and should be invoked to remove or ameliorate such evils and defects if found to exist.

On motion of Mr. REED, the Council took a recess for one half hour.

At the expiration of the time for recess, the Council was again called to order, and the President announced the following special committees :

On the resolution of Mr. COLBURN, relating to the mode of amending the Constitution,

Mr. COLBURN,  
Mr. LANE,  
Mr. POWERS.

On the resolution of Mr. DEWEY, relating to the Judiciary,

Mr. DEWEY,  
Mr. REDFIELD.  
Mr. RAND.

On motion of Mr. REED, the resolution of Mr. RAND, relating to woman suffrage, was called up and so amended as to read as follows :

*Resolved*, That a committee of three be appointed to inquire into the expediency of so altering the Constitution as to extend the right of suffrage to all the citizens of this State without regard to sex.

And the resolution as amended was adopted.

Mr. DEWEY introduced the following resolution, which was read and withdrawn by leave :

*Resolved*, That when this Council shall adjourn to-morrow, it adjourn to meet at the State House, at Montpelier, on Tuesday, the 19th day of October next, at ten o'clock in the forenoon.

Mr. COLBURN introduced the following resolution, which was read and adopted :

*Resolved*, That a committee of three be appointed to consider the expediency of biennial sessions of our legislature instead of annual, and of electing officers for two years ; leaving the executive power to call extra sessions as it is now.

Mr. LANE introduced the following resolution, which was read and ordered to lie :

*Resolved*, That a committee of three be appointed to inquire and report upon the expediency of so amending the Constitution that corporations may be formed under general laws, but shall not be created by special acts.

On motion of Mr. RAND, adjourned.

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THURSDAY, JUNE 3, 1869.

Prayer by Rev. Dr. W. H. LORD, of Montpelier.

Journal of Wednesday read and approved.

The President announced the appointment of the following standing committees :

*On the Powers of the Constitution,*

Mr. DEWEY,  
Mr. RAND,  
Mr. CLEVELAND.

*The Legislative Committee,*

Mr. REDFIELD,  
Mr. FRENCH,  
Mr. HARMON.

*The Executive Committee.*

Mr. REED,  
Mr. COLBURN,  
Mr. POWERS.

*On Taxes and Expenditures,*

Mr. ROSS,  
Mr. HOLLISTER,  
Mr. LANE.

The President also announced the appointment of the following special committees :

On the resolution of Mr. COLBURN, relating to biennial sessions and elections,

Mr. RAND,  
Mr. COLBURN,  
Mr. HARMON.

On the resolution of Mr. RAND, relating to woman suffrage,

Mr. RAND,  
Mr. REED,  
Mr. POWERS.

Mr. DEWEY introduced the following resolution, which was read :

*Resolved*, That when this Council adjourns to-morrow, it will adjourn to meet at the Capitol in Montpelier, on the 3d day of August next, at ten o'clock in the forenoon.

Mr. POWERS moved to amend the resolution by substituting in place of the words "3d day of August," the words *last Tuesday in July*, which motion was by leave withdrawn.

Mr. DEWEY, by leave, amended his resolution by substituting in place of the words "3d day of August," the words *27th day of July*.

Mr. LANE moved to amend the resolution of Mr. DEWEY, by substituting in place of the words , "27th day of July," the words *19th day of October*.

The question being, Shall the amendment be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,

LANE—2.

Those members who voted in the negative are Messrs.

CLEAVELAND,	FRENCH,	POWERS,
DEWEY,	HARMON,	RAND,
FIELD,	HOLLISTER,	REED—9.

So this motion to amend was lost.

Mr. LANE moved to amend this resolution by substituting for the word "to-morrow," the words *Friday, at 8 o'clock*, which was withdrawn by leave, and the resolution as amended was, on motion of Mr. REED, ordered to lie.

Mr. CLEAVELAND introduced the following resolution, which was read and adopted :

*Resolved*, That the committee on the resolution relating to the mode of proposing and adopting amendments to the Constitution of this State, be instructed to inquire into the expediency of so amending the Constitution as to abolish the Council of Censors, and to provide some other method of amending the Constitution of this State.

Mr. POWERS introduced the following resolution, which was read and adopted :

*Resolved*, That the Committee on the Powers of the Constitution be instructed to make inquiry whether section nineteen of part second of the Constitution has been violated by any member of the Legislature during the last septenary, and that such committee have leave to sit at any time during the term of office of this Council, and have power to send for persons, papers and records.

Mr. RAND introduced the following resolution, which was read, and on motion of Mr. CLEAVELAND, ordered to lie :

*Resolved*, That the Legislative Committee be directed to inquire why the ninety-fourth chapter of the General Statutes of this State (relating to the traffic in intoxicating drinks), has not been executed, and report their opinion of the causes of the failure of the execution of the same.

Mr. REED called up the resolution of Mr. DEWEY, relating to the time of adjournment of this Council, which had been read and ordered to lie, and moved to amend the same by striking out all of said resolution after the word "Resolved," and inserting in lieu thereof the following: *That when this Council shall close its present session, it shall adjourn to meet and hold its second session at the Capitol, in Montpelier, on the 27th day of July next, at 10 o'clock in the forenoon.*



And this motion to amend prevailed, and the resolution as amended was adopted.

The resolution of Mr. LANE relating to corporations was called up by Mr. LANE, considered, and again ordered to lie.

On motion of Mr. POWERS, adjourned.

#### AFTERNOON.

Mr. RAND called up a resolution introduced by him relating to chapter ninety-four of the General Statutes, and upon his motion, the resolution was so amended as to read as follows :

*Resolved*, That the Legislative Committee be instructed to inquire whether the provisions of the ninety-fourth chapter of the General Statutes, relating to the traffic in intoxicating drinks, have been duly enforced ; and if it be found that said provisions have not been so enforced, that said committee report as to the causes of said failure.

And the resolution as amended was adopted.

Mr. DEWEY called up the resolution of Mr. LANE, relating to corporations, and moved to amend the same so as to read as follows :

*Resolved*, That a committee consisting of three members be appointed to inquire into the expediency of so amending the Constitution as to prohibit the creation of private corporations by special enactment ; and that said committee have liberty to report such amendment or addition to the Constitution in respect thereto as they may deem to be necessary,

Which was agreed to, and the resolution as amended was thereupon adopted.

Mr. LANE introduced the following resolution, which was read and adopted :

*Resolved*, That the Secretary be authorized to make up and certify the debentures of the Council, and the officers and attendants employed by them during their present session.

Mr. POWERS introduced the following resolution, which was read :

*Resolved*, That the select committee appointed to consider the expediency of abolishing the Council of Censors, be instructed to

consider the expediency of increasing the number of the Council to thirty, to be apportioned to the different counties in the same manner as senators are.

The question being, Shall the resolution be adopted? the yeas and nays were demanded by Mr. COLBURN.

The vote being taken, those members who voted in the affirmative are Messrs.

CLEAVELAND,	FRENCH,	RAND,
DEWEY,	LANE,	REED—8
FIELD,	POWERS,	

Those members who voted in the negative are Messrs.

COLBURN, HARMON—2.

So the resolution was adopted.

Mr. CLEAVELAND introduced the following resolution, which was read and adopted :

*Resolved*, That the Secretary procure one hundred and fifty copies of the Journal of this Council at its present session to be printed, and that he forward by mail one copy thereof to the publishers of each daily and weekly paper in this State, and five copies to each member of this Council.

Mr. DEWEY introduced the following resolution, which was read and adopted :

*Resolved*, That the Treasurer of this State be requested to furnish to this Council at the commencement of its adjourned session a statement of balances due, if any, from officers who, by virtue of their office, are required to account to him for balances in their hands belonging to the State, and the time when such balances accrued.

The President announced as a special committee on the resolution of Mr. LANE, relating to corporations,

Mr. LANE,  
Mr. HOLLISTER,  
Mr. FRENCH,

Mr. COLBURN introduced the following Resolution, which was read and adopted :

*Resolved*, That the Legislative Committee be instructed to inquire whether the laws of this State regulating the rates of interest have

been disregarded and violated, and that for this purpose they have power to send for persons and papers, and that said committee report the causes of such violation, if found to have existed, and whether it be within the province of the powers of this Council to provide a remedy.

Mr. REED introduced the following resolution, which was read and adopted :

*Resolved*, That each Committee of this Council to which has been referred any proposed amendment of the Constitution or subject of consideration, notwithstanding the instructions to said committee may be specific, is hereby requested and authorized to report such amendment to the Constitution or other proceeding pertaining to the general subject committed to it, as any committee shall deem the public interest requires.

On motion of Mr. REED, the Council took a recess of ten minutes, after which

Mr. DEWEY introduced the following resolution, which was read and adopted :

*Resolved*, That the Committee on the Powers of the Constitution be instructed to inquire whether the legislative branch of the government, in the enactment of certain statutes enabling towns to grant aid to railroad corporations, has assumed to itself and exercised greater power than it is entitled to by the Constitution.

Mr. CLEVELAND introduced the following resolution, which was read and adopted :

*Resolved*, That at the close of the session of this Council to-morrow morning, the Council adjourn to meet on the 27th day of July next, as heretofore ordered.

Mr. LANE introduced the following resolution, which was read and adopted :

*Resolved*, That the Auditor of Accounts be requested to furnish this Council, at their adjourned session, a statement of balances due the State, if any, from the Judges of Probate and County Clerks in the several Counties and Districts, and the years in which such balances accrued, and the names of such delinquent officers.

On motion of Mr. HARMON, adjourned.

FRIDAY, JUNE 4, 1869.

Prayer by Rev. Dr. W. H. LORD.

Journal of Thursday read and approved.

On motion of Mr. REED, the Council adjourned, to meet at the Capitol, in Montpelier, on the 27th day of July next at 10 o'clock, A. M., agreeably to a resolution of the Council.

## SECOND SESSION.

TUESDAY, JULY 27, 1869.

Prayer by REV. S. HOLMAN.

On motion of Mr. FRENCH, Mr. ROSS was admitted to his seat as a member of the Council without producing his credentials.

The following communications in response to resolutions adopted by this Council at its first session were read and referred to the Committee on Taxes and Expenditures :

STATE OF VERMONT, }  
OFFICE OF STATE TREASURER, }  
MONTPELIER, July 27, 1869. }

*To the Honorable Council of Censors :*

In response to the resolution of your body passed on the third day of June last, requesting the Treasurer of this State to furnish a statement of balances due from officers, who by virtue of their office are required to account to him for balances in their hands belonging to the State, and the time when such balances accrued, I have the honor to report : There are balances due from the following named officers on account of the State tax assessed under the authority of the act of 1868, as follows :

Irving Dunshee, Collector of Taxes, Bristol.....	\$424 77
L. A. Drew,                   “                   “   Burlington.....	1,291 49
R. J. Morse,                   “                   “   Bolton.....	450 93
Charles S. Clark,           “                   “   Jamaica.....	552 28
E. Emerson, 2d,           “                   “   Rochester.....	65 57
Thomas Failey,           “                   “   St. Albans.....	3,085 80
D. H. Beattie, Col'r. of Taxes unorganized towns in Essex Co.	9 72

Making a total of.....\$5,993 19

The balances above named, all became due on the first day of June last.

Respectfully submitted,

J. A. PAGE, *State Treasurer.*

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AUDITOR'S OFFICE,  
MIDDLEBURY, VT., July 23, 1869. }

*To the Honorable Council of Censors :*

In response to a resolution of your honorable body, I have the honor to report that there is no balance due the State from any judge of probate, and that there is no balance due from any county clerk which accrued in any former year, and only such balances are outstanding as arise from money advanced under the statute to the clerks of Bennington, Lamoille and Orleans counties, to pay debentures of court, jurors and witnesses, at the last term of the county court, in their respective counties, in respect to which returns have not yet been received.

DUGALD STEWART,  
*Auditor of Accounts.*

On motion of MR. CLEVELAND, adjourned.

### AFTERNOON.

On motion of MR. DEWEY, the Council resolved itself into a committee of the whole.

The committee of the whole having arisen, and no report being made, MR. HOLLISTER introduced the following resolution, which was read and adopted :

*Resolved*, That the Committee on the Powers of the Constitution be directed to inquire into the expediency of so amending the constitution of this State, as to authorize the Legislature to enact laws giving to the Judges of the Supreme and County Courts, the right in their discretion to refer civil causes pending in said courts.

On motion of MR. LANE, adjourned.

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WEDNESDAY, JULY, 28, 1869.

Prayer by REV. S. HOLMAN.

Journal of Tuesday read and approved.

MR. DEWEY introduced the following resolution, which

was read and referred to the Special Committee on Woman Suffrage :

*Resolved* That the Committee on Woman Suffrage be instructed to inquire into the expediency of amending the twenty-second section of part second of the Constitution, so as to read as follows :

SEC. 22. The inhabitants of this State, without distinction of sex, shall be trained and armed for its defense, under such regulations, restrictions and exceptions as Congress, agreeably to the Constitution of the United States, and the Legislature of this State, shall direct. The several companies of militia shall, as often as vacancies happen, elect their captain and other officers, and the captains and subalterns shall nominate and recommend the field officers of their respective regiments, who shall appoint their staff-officers. And no person shall be disqualified to hold any military office on account of sex.

MR. REED from the Special Committee on Woman Suffrage submitted the following report, which was read and accepted :

*To the Honorable Council of Censors now in session :*

The Special Committee appointed under the following resolution,

*Resolved*, That a committee of three be appointed to inquire into the expediency of so altering the Constitution as to extend the right of suffrage to all the citizens of the State, without regard to sex.

Having duly considered the same, report :

The Declaration of Independence asserts that "*all men are created equal*," that "*governments derive their just powers from the consent of the governed*."

The first clause of our own State Constitution declares that "*all men are born equally free and independent, and have certain natural, inherent and inalienable rights, among which are the defending and enjoying life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety*."

"*Taxation and representation are inseparable*," cried the fathers of the Revolution.

We all believe these to be self-evident propositions, and that they apply to all mankind, man and woman alike.

Suffrage is an expression of opinion by ballot. The qualifications are, capacity to understand the effect of public measures and a desire for the public welfare. And it is the right of any one person who possesses these qualifications, as much as it is the right of any other.

But one-half of the people of our State are denied this right, and woman has no vote. Yet she has all the qualifications—the capacity, the desire for the public welfare. She is among the governed. She pays taxes.

Even-handed justice, a fair application of the principles of the Declaration of Independence and of our State Constitution, above quoted, give woman the ballot, and do not shut out from it one-half of the intelligence and more than one-half of the moral power of the people. Custom and prejudice alone stand in the way. There is no reason why woman should not be allowed to do what she is so eminently fit to do. We have seen no objection to woman suffrage that has not been successfully met. We know no good reason why the most ignorant *man* should vote, and the intelligent *woman* be refused.

Our present political institutions were formed and shaped when men had their chief interests and pursuits out of doors, and women remained the humble slaves at home. The social change has been immense. Now woman sits by the side of man, is his companion and associate in his amusements, and in all his labors, studies, pursuits and interests, save the one of governing the country. And it is time that she should be his associate in this.

Some of the best minds of the English race have been fathoming this subject. It is so extensive that we cannot present it within the limits which would secure the attention of even members of this Council. For statements of some of the views of woman suffrage entertained by your committee, the Council is referred to the Speech of John Stuart Mill in the British Parliament, May 20, 1867, the address of Henry Ward Beecher at the Cooper Institute, New York, and to the recent report of the Joint Special Committee on Woman Suffrage to the Senate of Massachusetts, May 24, 1869.

We fully concur in the sentiments of the following extracts from the address of Mr. Beecher :

Look, for a moment, at some of the results that would accrue from the granting of the liberty of suffrage to women.

What would be the effect of their votes in the selection of men for offices—town, state, and national? Do you not know, does not every politician know, does not every man that is at all conversant with public affairs know, that you are obliged to choose men for office with reference to those who are to vote for them, and that if men were selected whose election depended as much upon the votes of women as upon the votes of men, not one bad man would be put up



where there are fifty selected now ? The voting of women would be the sifting of men throughout the nation.

Now, the moment you bring into our public affairs woman's influence, her stronger moral sentiment, her love of disinterested kindness, her deep and ineradicable sentiment of purity, her moral courage, and faith in all that is good, her yearnings and aspirations for the higher, serener, and more heavenly truths and knowledges ; the moment you bring together in public affairs virile strength and female refinement,—then you will have God's foundation for moral purity and public peace ; and great moral interests and questions of humanity will take the place of selfishness and miserable quarreling expedients. Then, principles will be discussed and applied, and legislation will grow heroic again. \* \* \* \* \*

If women were to vote there would be an end of indecent voting places. \* \* \* If father and mother, husband and wife brother and sister, man and woman, inspired by the sanctity of patriotism, were to go forth together to vote, do you suppose that our elections would be characterized by the vulgarity and violence which now defile them ?

What is there in depositing a vote that would subject a woman to such peculiar exposure ? A woman, in dropping a letter into the post office, is made more public, and is full as much indelicate as in depositing her vote. A vote is the simplest, the neatest, the most unobtrusive thing imaginable. This white slip of paper drops as quietly and gently as a snow flake on the top of the Alps ; but, like them, when collected, they descend like avalanches. Woe be to the evil which they strike ! Let the man who is the most fastidious, who prides himself most on his refinement, find fault, if he can, with the vote of a woman,—a thing that is so easy, so simple, but that would carry into human affairs a power almost like the right hand of the Almighty. \* \* \* \* \*

To-day, the proudest throne on the globe is honored by a woman. No person is shocked that she is at the head of empire. Every reason urged against a larger liberty for woman is illustriously confuted by the dignity, purity and womanly propriety with which Victoria stands before her empire, and before the world.

It is only woman *without a title*, that must have no privileges. Woman, in her own simple self, with nothing but what God gave her, plain, democratic woman, is not deemed worthy of honor and publicity. With a crown on her brow, she may enter parliaments, and govern empires. With only her own simple personal virtues, she may not lift up her hand to cast a vote ! If she represents a power, a state, an art, a class, if she only stand upon an aristocratic base, she is indulged. But woman, in her own nature, and representing her own self, is disowned and rebuffed ! Now, as a Christian democrat, I assert for her every right and every privilege that aristocracy accords her."

George W. Curtis, in the New York Constitutional Convention, says :

“ It seems to be thought that if woman practically took part in politics, the home would be left a howling wilderness of cradles, and a chaos of undarned stockings and buttonless shirts. But how is it with the men? Do they desert their workshops, their plows and offices, to pass their time at the polls? Is it a credit to a *man* to be called a professional politician? The pursuits of men in the world, to which they are directed by the natural aptitude of sex, and to which they must devote their lives, are as foreign from political functions as those of women. To take an extreme case: there is nothing more incompatible with political duties in cooking and taking care of children than there is in digging ditches or making shoes, or in any other necessary employment, while in every superior interest of society growing out of the family, the stake of women is not less than men, and their knowledge is greater. In England, a woman who owns shares in the East India Company may vote. In this country she may vote as a stockholder upon a railroad from one end of the country to another. But if she sells her stock, and buys a house with the money, she has no voice in the laying out of the road before her door, which her house is taxed to keep and pay for. And why, in the name of good sense, if a responsible human being may vote upon specific industrial projects, may she not vote upon the industrial regulation of the State? There is no more reason that men should assume to decide participation in politics to be unwomanly than that women should decide for men that it is unmanly.”

The position of woman in regard to the common schools of the State is the most absurd and unjust that can be imagined. She must always be the chief instructor of the young in point of time and influence. She is their best teacher at home and in the school. And her share in this ever expanding work is becoming vaster every day. Woman as mother, sister, teacher, has an intelligence, a comprehension of the educational needs of our youth, and an interest in their development, far in advance of the other sex. She can organize, control and teach the most difficult school in the State; yet she has no vote in the selection of teachers, the building, arrangements and equipment of school-houses, neither in the method and extent of instruction. She can pay her share of the expenses of schools, but can have no legal voice in their management. She can teach, but she can have no vote in determining what shall be taught. She is the very corner-stone of institutions which she has no lawful vote in shaping.

Suffrage alone can carry woman's equal right and privilege into the district school. And especially let us have her open, avowed

and public responsibility and co-operation,—always safer than indirect influence—always more honest and efficient than a kitchen cabinet.

This subject is one that promises to engross the thoughts of this generation, and it will be agitated till in the progress of events the right of woman to vote will not be questioned. This result is just as certain as it is that in the end the cause of truth ever triumphs.

We believe that woman, married or unmarried, was made to be the companion of man and not his mere servant; that she has the same right to control her property that he has to control his; that she has the same right to aspire to any occupation, profession, or position, the duties of which she is competent to discharge, that he has. A right is worth nothing without the power to protect it. The ballot alone can do this.

When the black man of the South was made a free man, the ballot was given him as the only sure mode of protecting his freedom and the equal rights freedom confers.

And we should glory in seeing Vermont, first of all lands, accord to woman her equal rights before the law, and invest her with their only sure safeguard, the right of suffrage.

After abolishing human slavery, the next great conquest of the United States over wrong and error, will be to take woman from the feet of man and place her by his side, invested with every right and privilege of her present "lord and master" that the law can confer. And in this is involved his highest interests. Whatever will elevate her will elevate him. That they rise or sink together all history shows.

The form of an article of amendment to the constitution is appended, the adoption of which your committee recommend.

Respectfully submitted,

JASPER RAND,  
CHARLES REED,  
H. HENRY POWERS, } *Committee.*

Montpelier, July 27, 1869.

*Proposed Article of Amendment.*

ARTICLE No. 24. Hereafter women shall be entitled to vote, and with no other restrictions than the law shall impose on men.

On motion of Mr. POWERS,

*Ordered* that the report lie and that the Secretary procure the printing of five hundred copies for the use of the Council.

On motion of Mr. REED, adjourned.

## AFTERNOON.

Mr. LANE from the Special Committee on the resolution relating to corporations submitted the following report, which was read and accepted :

*To the Honorable Council of Censors :*

The committee appointed to inquire into the expediency of so amending the Constitution as to prohibit the creation of private corporations by special enactments, report that they have had the same under consideration, and recommend the adoption of the following amendment :

### ARTICLE —

SEC. 1. Corporations may be formed under general laws. They shall not be created, nor their powers increased or diminished by special acts except for municipal purposes. All such laws may be altered or repealed. The Legislature shall not authorize the consolidation of railroad corporations owning parallel or competing lines of road.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. The term corporation, as used in this article, shall be construed to include all associations and joint stock companies having any of the privileges or powers of corporations not possessed by partnerships or individuals. Corporations shall have the right to sue and may be sued in all courts by their corporate names.

HENRY LANE for the Committee.

On motion of Mr. Ross,

*Ordered* that the report lie, and that the Secretary procure the printing of one hundred copies for the use of the Council.

Mr. POWERS submitted the following report, which was read, accepted, and ordered to lie :

*To the Honorable Council of Censors now in session :*

A majority of your committee to whom was referred the resolution of Mr. COLBURN favoring an amendment to the Constitution, abolishing the Council of Censors, and referring to legislative action for changes in the Constitution ; and also the resolution of Mr. POWERS to increase the number of the Council of Censors to thirty, respectfully report that in their judgment both of the propositions above named are unwise and inexpedient.

Respectfully submitted,

HENRY LANE,  
H. HENRY POWERS, } Committee.

On motion of Mr. DEWEY, adjourned.

THURSDAY, JULY 29, 1869.

Prayer by REV. S. HOLMAN.

Journal of Wednesday read and approved.

MR. RAND from the Special Committee on Biennial Sessions and Elections submitted the following report, which was read and accepted :

*To the Council of Censors :*

Your committee, appointed to consider the resolution in relation to biennial sessions of the Legislature and elections, respectfully report that, upon consideration of the subject, they recommend that the Council propose the following amendment to the Constitution. viz :

#### ARTICLE.

Your committee submit the following among the reasons which induce them to make this recommendation :

They are of opinion that it is not always necessary that there should be an annual session of the General Assembly.

The business transacted by the General Assembly is properly considered under the two classes of public and private enactments. So far as our public laws are concerned, it is to be noticed that ours is an inland State with a homogeneous population, that our territorial limits are small, our people law-abiding and intelligent, that with such a State and such a people we do not require the amount of legislation that is required in some other States. Your committee are of opinion that a careful scrutiny of the history of our State Legislature for the past twenty years will show that in most cases our public legislation has been confined to trivial matters, and that no important changes have been made in our laws as often as once in two years, nor indeed for much longer periods. Such scrutiny will also show that in many instances, such changes as have been made, have been had unadvisedly, so that no inconsiderable part of the business has been to undo and repeal what had been so hastily done the year before. In this view your committee are of opinion that we have had too much legislation; that the continual tinkering of the laws, by making amendments one year and repealing them the next, and the numerous minor modifications of our statute which our legislation has produced, have not been profitable to the State. Such legislation has increased litigation instead of diminishing it. Our Reports show that a very large proportion of the disputes settled in the Supreme Court, grow out of the construction of newly enacted statutes. No legislature can form a statute so perfectly but the interests of parties, and the ingenuity of counsel can raise questions as to its construction. When therefore, a statute has been enacted and its construction settled, nothing but a clear and strong reason should cause its change.

Now, therefore, if we change the sessions of our General Assembly from annual to biennial, the result will be not only that there will be less opportunity for unimportant and unnecessary change, but from having a longer public consideration before coming before the General Assembly, such propositions of amendment as are made will be examined more carefully and determined more judiciously.

So far as private legislation is concerned, most of it is quite unimportant, being simply the creation of minor corporations, and, whether we have annual or biennial sessions will soon be disposed of as in other States, by general enactments for creating private associations, by which the rights of the public will be secured, and at

the same time corporate power be granted whenever needed. We have now upon our books hundreds of acts creating private corporations, which have not been of benefit to any party sufficient to pay for the white paper upon which they were printed.

Occasionally, it is true, there come up grave questions as to granting corporate rights and public franchises which deserve the attention of the Assembly, but these do not arise every year, and when they do come up, it most usually happens that many years elapse from the first start to the final perfection of the enterprise, so that a delay of a year in the legislation would not retard the public benefit. In most of the questions of importance that arise in practice, the General Assembly is made to serve not the part of a legislature, deliberating for the public good, but the arena in which rival and hostile private interests seek to gain advantage over each other. With all such matters, the less we have to do the better for the public.

From these considerations, your committee are of opinion that the interest of the State would be advanced by having the sessions of the General Assembly less frequent; that at least the expense of some of the sessions could be saved. This last, though a minor is by no means an unimportant consideration.

At the same time, whenever the public good requires it, the Assembly can be convened the same as now, either for adjourned sessions or upon call of the Governor. The effect of the amendment recommended would not be to deprive the State of any needed sessions, but only to give us the power to dispense with such as are found to be unnecessary.

Another consideration to be regarded in this connection is the effect of the proposed change upon the character of the officers to be elected. In this respect your committee are of opinion that the proposed change will not materially modify the present state of affairs. Under the present system it is almost the universal practice to give a second election, and so practically we now select our officers for terms of two years. If it should result that under the change, officers should then be re-elected, so giving a four years' term of office where we now have but two, the effect would of course be to lessen the number of men holding offices in the State, and this, if it produced any difference, would improve the character and qualifications of the officers, for as a general rule more care is had in the selection of a few than of many.

It is no valid ground of objection that officers will act more carefully and with better judgment when they know their actions are to be subjected to the scrutiny of their constituents on their re-election.

Such views are libels on our officers and people. A judge who would vary his judgments for the sake of influencing his reelection, would be doing wrong and deserve impeachment. A legislator who has no higher motive for good conduct than the hope of a re-election is unfit for his place. Such would be unworthy motives to influence their action. It would then be a strangely inconsistent course of reasoning that should claim that the conduct of men in official positions would be improved by seeking to give them unworthy inducements. It would be as if some one should recommend that every suitor having the right of a case should bribe the jury to further justice.

Our experience is an abundant refutation of this objection. We uniformly elect our officers twice. It is generally expected that all our officers will have one re-election, and is generally understood that they are not to have another. Now if there were force in the objection we should find that officers did better in their first than in their second years of office. This is not so. Your committee submit that the observation of every intelligent citizen will confirm the statement that if there be any difference it is in favor of the second year, on account of the increased knowledge and experience given by the first year's service.

Another objection to the proposed change is that a long term of office lays open the incumbents, and more especially the members of the General Assembly, to improper influences before the sessions, and that we ought not to have a long time intervene between their election and their active service, on the same principle that jurymen are selected but a short time before the terms of court to which they are returned.

This objection is answered practically by the same facts we have just been considering.

In theory there would be force in the objection if all our members were venal. They are not such, and although rare instances are found of individual shortcomings, our General Assemblies never have been carried by corrupt means, and with our present basis of representation there is little fear they ever will be. The great majority of our members are honest men, and we may safely expect they will continue such.



Now if a biennial election gives greater opportunities to approach the one venal member, it must at the same time give the ten or twenty honest members to be found for every corrupt one a better opportunity for honest study and careful information as to their official duties, and give more wisdom to them, which is the controlling action of these Assemblies.

Another very important consideration is the expense of annual elections. We have, say 40,000 to 50,000 votes cast at every State election. The time of each of these voters in attending the election is just as much a tax on the community as if each voter were assessed the value of that time, and the money paid over to some tax-gatherer. Add to this the time spent in attending primary meetings, caucuses, and conventions, and in canvassing and soliciting votes, and it is safe to say that every election costs the State at least as much as a full day's work of each voter, or \$100,000. For this we get no return unless we get it in the benefit of the election.

We have already seen that most of our officers serve two years. Probably not five in every hundred fail of their re-election. The result then is in effect that every other year we have the expense of a general election to change five per cent. of our officers. The difference in value between the services of the five per cent. who are not re-elected and of those who take their places is very poor return for this expense.

But the pecuniary cost of our elections is by far the least of its expense. Our elections, accompanied as they are by local contests, the intrigues of cliques, and the struggle of hungry aspirants, have in them much that is demoralizing. Not to mention the corrupt appliances which unscrupulous men bring to bear more or less in every close contest, there are influences which cannot be stigmatized as immoral which have yet an unhealthy tendency. Our frequent elections bring about an eagerness for place and a consequent courting of popularity that works evil in our society. Our leading men in such conditions, instead of being manly and outspoken in their convictions, become timid in rebuking evil and cautious in sustaining the right. Instead of being public teachers, advocating wise counsels and combating prejudices and striving to turn public thought into higher and better courses, our public leaders flatter the vanity and stimulate the prejudices of the multitude, and follow wherever the passions or interests of the many may lead them. Instead of big statesmen they become demagogues.

So too this eagerness for place brings about an unhealthy ambition. Men forsake stations of greater credit and usefulness for the glittering allurements of office. It is a very poor bargain for the State to change a useful private citizen into a hungry office-seeker.

These, to be sure, are necessary evils, the legitimate results of our form of government, but in the judgment of your committee are aggravated by the frequency of our elections. While they are not sufficient reasons for doing away with elections entirely, they are reasons for having them as unfrequently as is consistent with the public good in other respects.

Your committee might refer to the practice in other States as showing that the judgment of our best men, those who have sat as reviewers of their own State constitutions, or who having lived under the constitutions of older States, have assisted in establishing new States, is tending to a concurrence with the views here expressed, but they have preferred to discuss the matter upon principle and our own experience. From all the considerations they have been able to give the subject your committee are of opinion that while they would not recommend such lengthy terms of office as are found in other countries, and some States in our own country, they are satisfied that annual elections are unnecessary, and regard the term of two years as the judicious mean which both reasoning founded on principle and the experience of other States concur in recommending.

JASPER RAND,	} Committee.
J. W. COLBURN,	
WILLIAM HARMON.	

On motion of Mr. Ross,

*Ordered* that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

Mr. POWERS introduced the following resolution, which was read, and on motion of Mr. Ross, ordered to lie :

*Resolved*, Two-thirds of this Council concurring herein, that it is expedient to call a Convention of delegates of the freemen of this State, to meet at the State House in Montpelier, on the 2d Wednesday of June, A. D. 1870, for the purpose of taking into consideration such amendments to the Constitution as have been or may be proposed by this Council.

On motion of Mr. Ross, the report of the Special Com-

mittee on Corporations was taken up, and made the special order for 2½ o'clock this afternoon.

On motion of Mr. Ross, the report of the Special Committee on Woman Suffrage was taken up, and made the special order for Friday afternoon next at 2½ o'clock.

Mr. REED from the Executive Committee submitted the following report, which was read :

*To the Honorable Council of Censors :*

The Executive Committee respectfully report :

That it has been brought to the notice of your committee that the pardoning power of the Governor has in some cases been exercised without notice to the prosecuting officer by whom a sentence had been obtained, and that, if such notice had been given, such representations would have been made that the Governor would doubtless have withheld his action.

And while your committee would not restrict the pardoning power of the Governor, we are compelled to suggest that it is hardly fair to a State's Attorney, after having used his best efforts to convict some scamp deserving punishment, that the execution of the sentence should be prevented by a pardon from the Governor, obtained by an *ex parte*, and perhaps false representation.

We believe it would be a salutary rule if the Governor would always notify the prosecuting officer of an application for pardon.

It has also been brought to our notice that justices of the peace, who have collected fines and costs under the provisions of Chap. 94, Sec. 9, of the General Statutes, do not always account for them. The law now provides that these fines shall be paid in to the several county clerks, thence to the State treasury : General Statutes, Chap. 12, Sec. 51, page 92.

County clerks have only the power to receive these fines and costs from the justices. They have no power to inquire into the correctness of the amount paid them by the justices, and to ascertain whether the sum paid is the full amount collected. There is no officer whose duty it is by law to do this. And when a justice of the peace is authorized to collect and receipt for a fine, he is so far an executive officer, and should be treated as such. And there ought to be some person whose duty it shall be to examine into and ascertain the correctness and sufficiency of the payment made by the justice.

On the part of the justice, there is in this matter, a neglect of his executive duty in not paying in all fines collected, and a defect in the law in not providing for a yearly or semi-annual settlement with the justice.

From the information laid before us, we are satisfied that a considerable amount of money is each year lost to the State from this failure of the justices to account, and that thereby the execution of the provisions of Chap. 94, is made unduly expensive to the State.

Your committee, in the discharge of their duties, have not heard of any complaint from any source, that during the last septenary, "*the Executive branches of the Government have assumed to themselves, or exercised other or greater powers than they are entitled to by the Constitution,*" nor that any State officers have not "*performed their duty as guardians of the people,*" except as above specified.

All which is respectfully submitted,

CHARLES REED,	} <i>Executive Committee.</i>
J. W. COLBURN,	
H. H. POWERS,	

MONTPELIER, July 28, 1869.

On motion of Mr. LANE, the report was recommitted, with instructions to amend.

Mr. REED moved to reconsider the vote whereby the report was recommitted.

The question being, Shall the vote be re-considered? the yeas and nays were demanded by Mr. POWERS.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,	HARMON,	POWERS,
CLEAVELAND,	HOLLISTER,	REED—7
FIELD,		

Those members who voted in the negative are Messrs.

DEWEY,	LAND,	ROSS—5
FRENCH,	RANE,	

So the motion prevailed.

The question recurring, Shall the report be re-committed with instructions to amend? the yeas and nays were demanded by Mr. REED.

The vote being taken, those members who voted in the affirmative are Messrs.

LANE,

ROSS—2.

Those members who voted in the negative are Messrs.

COLBURN,

FRENCH,

POWERS,

CLEAVELAND,

HARMON,

RAND,

DEWEY,

HOLLISTER,

REED—10.

FIELD,

So the motion to recommit was lost, and the report was thereupon accepted.

On motion of Mr. DEWEY,

*Ordered* that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

Mr. POWERS introduced the following resolution, which was read and adopted :

*Resolved*, That a committee of three members of this Council be appointed, to be denominated the Committee on Revision and Engrossment, whose duty it shall be to revise and re-draft any article or articles of amendment to the Constitution, which may be recommended by this Council previous to the final adoption and publication of such article or articles.

The President announced as the Committee on Revision and Engrossment :

Mr. POWERS,

Mr. ROSS,

Mr. REED.

On motion of Mr. ROSS, adjourned.

## AFTERNOON.

The report of the Special Committee on Corporations was taken up, being the special order, and on motion of Mr. ROSS was amended by striking out the clause "all such laws may be altered or repealed," in the first section of the proposed article of amendment.

Mr. POWERS moved to strike out all after the first clause in said article, and pending this motion, Mr. DEWEY moved

to amend the proposed amendment so as to strike out all after the second clause in said article.

The question being, Shall the motion of Mr. POWERS be so amended? the yeas and nays were demanded by Mr. DEWEY.

The vote being taken, those members who voted in the affirmative are Messrs.

CLEAVELAND,	FRENCH,	RAND,
DEWEY,	HARMON,	REED,
FIELD,	HOLLISTER,	ROSS—9.

Those members who voted in the negative are Messrs.

LANE,	POWERS—2.
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So the amendment to the proposed amendment of Mr. POWERS was adopted.

The question recurring, Shall the amendment as amended be adopted? the yeas and nays were demanded by Mr. DEWEY.

The vote being taken, those members who voted in the affirmative are Messrs.

CLEAVELAND,	HARMON,	RAND,
DEWEY,	HOLLISTER,	REED,
FIELD,	POWERS,	ROSS—9.

Those members who voted in the negative are Messrs.

FRENCH,	LANE—2.
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So the amendment as amended was adopted.

The question then being shall the report as amended be adopted? Mr. REED proposed to amend by substituting in lieu of all of said articles the following :

*"No corporations shall be created by the Legislature except for railroad and municipal purposes; but they shall be formed under general laws passed by the Legislature."*

Mr. POWERS moved to amend the amendment after the word "railroad," by inserting the words *religious and municipal*.

On motion of Mr. DEWEY, the report and proposed amendments were

*Ordered* to lie and made the special order for Friday at ten and one-half o'clock in the forenoon.

On motion of Mr. DEWEY, the report of the Special Committee to inquire into the expediency of abolishing the Council of Censors was called up and recommitted.

On motion of Mr. RAND, adjourned.

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FRIDAY, JULY 30, 1869.

Prayer by Rev. CHARLES A. ALLEN.

Journal of Thursday read and approved.

Mr. RAND from the Committee on the Powers of the Constitution submitted the following report, which was read, accepted, and ordered to lie :

*To the Council of Censors now in session .*

The Committee on the Powers of the Constitution, to whom was referred the resolution of Mr. HOLLISTER " in relation to so amending the Constitution as to authorize the courts to refer suits at their discretion,"

Report, that they have have had the same under consideration, and are of the opinion that it is inexpedient to make the amendment proposed.

All of which is respectfully submitted.

J. RAND, for Committee.

The report of the Special Committee on Corporations, being the special order, was taken up, and the question being on the adoption of the amendment of Mr. POWERS to the

proposed amendment of Mr. REED, it was decided in the negative.

Pending the question, Shall the amendment of Mr. REED be adopted? Mr. DEWEY moved to amend this amendment so as to insert the following words after the first clause in said article: *Subject to such restrictions and regulations applicable to corporations in general, or to any particular class of corporations, as the Legislature may deem expedient.*

And the question being Shall this amendment be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,	HARMON,	RAND,
DEWEY,	HOLLISTER,	REDFIELD,
FIELD,	LANE,	REED,
FRENCH,	POWERS,	ROSS—12

And no member voting in the negative, the amendment prevailed.

The question then being Shall the amendment as amended be adopted? it was decided in the affirmative.

The question recurring, Shall the report as amended be adopted? on motion of Mr. RAND,

*Ordered* that the report lie, and be made the special order for two o'clock this afternoon.

Mr. DEWEY introduced the following resolution, which was read, and on motion of Mr. ROSS, ordered to lie :

*Resolved*, That the President be directed to employ a reporter of the proceedings of this Council, during the remainder of this session.

Mr. ROSS from the Committee on Taxes and Expenditures submitted the following report, which was read and accepted  
*To the Honorable Council of Censors :*

The committee "to inquire whether the public taxes have been justly laid and collected, and in what manner the public money has been expended," respectfully report, that in prosecuting the inquiry "whether the public taxes have been justly laid," they have endeavored to be guided by that provision of the Constitution which de-



declares "that every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection." When the public taxes are laid in accordance with the spirit of this provision of the Constitution, the committee judge they are "justly laid." From the information which has come to the committee, as well as from their own observation, they are forced to the conclusion that the public taxes have not been, and are not, justly laid. In different parts of the State the same class of property is assessed at different valuations, and rarely if ever at its true value in money, as required to be assessed by the statute. Real estate is assessed usually at from one-half to two-thirds of its true value in money, unless it happens to consist of wild lands owned by non-residents, which are frequently assessed for more than they will bring in market. Personal property is usually assessed at nearer its value in money, but rarely above two-thirds that value, unless it consists of stocks returned to the town clerk, which generally are assessed at their full par value. This inequality in valuation has arisen not so much from an honest difference of judgment as to the value of property entertained by different listers, as from their establishing a rule for valuing property different from that required by statute law. Public opinion seems to be morally depraved in regard to this matter. It is hardly considered a stain upon one's character to make any statement, however false, in regard to the amount of his property. Citizens who would revolt at the thought of withholding aught from a fellow citizen, deem it no dishonor to secrete and by every means withhold their property from taxation. Listers, though sworn to set in the list real and personal property at one per cent. of its true value in money, knowing that they will be sustained by those from whom they receive their election only so long as they keep the valuation of the property of their respective towns as low or lower than the valuation of the same property in other towns, constantly and designedly assess the property in their towns at less than its full value in money, and have continued this practice to such extent that the assessed value of the property in the State is but little if any above half its true value in money.

This under-valuation if uniform renders the apparent taxation in the State higher than the real, and thus tends to keep capital out of the State. But it is not uniform. Rather, the under-valuation

grows out of the attempt of some, and we might say every, portion of the State to shirk its full proportion of the expense of protecting life, liberty and property. Whether this evil can be better corrected by penalties imposed upon listers, or by adopting some other method for ascertaining the valuation of property, we leave for the Legislature to decide.

That provision of the statute which allows the owner of personal property to deduct from its valuation the amount of his debts, but does not allow the owner of real estate the like privilege, appears to the committee to impose an undue proportion of the expense of protecting property upon the owners of the latter class of property. While the personal property is assessed at from half to two-thirds its true value in money, the deductions for debts are for the full amount, and sometimes double the amount; in fact, it is believed that fictitious debts are frequently contracted for the express purpose of obtaining these deductions.

It is claimed that real estate forms the great bulk of the property of the State, is stable and imperishable, and furnishes the only sure basis for taxation, and therefore no deductions should be allowed to the owners of this class of property for their indebtedness. The stability and imperishable character of real property make the expense of its protection less than that of movable, perishable, personal property. If the Constitution requires every class of property to be taxed to pay its proportion of the expense of protection, it would seem that equal if not weightier reasons exist for allowing deductions for debts to the owners of real, than for such allowance to the owners of personal property.

The Constitution seems to contemplate a tax upon the person together with the obligation of personal service in the time of war, to defray the expense of protecting life and liberty, and a tax upon property to defray the expense of protecting property. If this is so, why should not all property, without deductions for debt, be taxed upon the basis of its "true value in money"? But if deductions for debts are to be allowed, are there any good reasons why this allowance should be conceded to the owners of one class of property and denied to the owners of another class of property? and can it be said that taxes levied upon this basis are "justly laid"?

Within the last twenty-five years there have been created within the State various railroad, telegraph and express companies, com-

rate bodies extending their franchises and property through several towns, which have received their existence, their rights and privileges from the hand of the State; the granting of whose charters, the settling of whose rights and privileges, and the protection of whose property, have occupied no inconsiderable portion of the time and attention of the Legislature and of the courts, and largely increased the expenses and taxes of the State. These, it would seem, under the provision of the Constitution, should contribute their proportion toward the expenses and taxes of the State. Such has not been the case except to a very limited extent. This result has been due to various causes. In their inception the moneyed value of the franchises and property of these corporations was supposed to be represented by their capital stock. The Legislature seems to have proceeded upon the theory that it is preferable to tax the stock of these corporations to the owners thereof, rather than to tax the corporations directly. Soon, however, the franchise and property of these corporations, in many cases, passed from the hands of the stockholders into the hands of the bondholders, and the stocks of such corporations became worthless. No attempt was made to tax that proportion of these stocks owned by non-residents till 1854. During that year the Legislature provided that stock owned by non-residents, yielding to such owner a profit or dividend of six per cent. on its par value, should pay a specific tax of one per cent. of that value to the State Treasurer.

It is difficult to see why property of this class, having a moneyed value, yielding a less profit or dividend than six per cent. on its par value, should go untaxed, while all other classes of property are taxed on their value in money regardless of whether they yielded a profit or dividend to the owner; or how taxes imposed upon this basis are justly laid.

It was claimed that this law imposing this specific tax upon this class of property—thus taxing it in a manner different from what the other property of the State was taxed—was unconstitutional, and the payment of the tax resisted. The recent decision of the Supreme Court of the United States has substantiated this claim. Hence, up to the present time only resident owners of this class of property have been taxed. Probably not over one-hundredth part of the cash value of the property and franchises of these corporations has thus far contributed to the expenses of the State.

The estimated value of this class of property in the State is from fifteen to twenty millions of dollars. Receiving their existence, rights and privileges, their own protection, and that of their property from the State, the Constitution requires these corporations to contribute their proportion of the expense of that protection. The property and franchises of these corporations, valued on the same basis on which the real property of the State is now valued, would amount to not less than five millions of dollars, and taxed as other property is taxed, would pay in taxes an annual sum of not far from one hundred thousand dollars. Nearly this sum has been, thus far, annually lost to the State, and consequently a heavier burden of taxation imposed upon other classes of property, and that, too, while, under the fostering care of the State, the earnings of these corporations have been steadily and yearly increasing.

In the opinion of the committee the system of taxing the stocks representing this class of property is unequal and unjust. If the resident owners of stock alone are taxed, the non-resident stockholder not only has his property protected at the expense of the State, and contributes nothing towards that expense, but has an undue advantage over the resident stockholder. If both resident and non-resident stock should be taxed alike, not only innumerable difficulties and complications will arise in the collection of the taxes against non-resident stockholders, but all those corporations whose franchises and property have fallen into the hands of bondholders will escape, rendering the latter class of corporations more inviting to capitalists than the former. In the opinion of the committee the best way of effecting a just contribution from these corporations, towards the expense of their protection, is for the State to treat them in this respect as it treats individuals; tax them directly and not through their stockholders; constitute the first lister of each town through which the franchise and property of the corporation extends, or a select number of men, a board of assessors to appraise the franchise and property of such corporation at its value in money, and to distribute the same between such towns in proportion to the comparative value of the same in each town. Let the sum thus distributed to each town be re-distributed by the listers of that town for school district and highway purposes.

The committee are aware that it is urged that the Legislature in chartering the Vermont Central Railroad Company, exempted the

stock, franchise and property of that company perpetually from taxation. If that exemption is constitutional and valid, it furnishes an objection as forcible against the taxation of the stock of other similar corporations as against the taxation of the corporations as such.

The committee would respectfully raise the question whether the Legislature in granting that exemption did not step beyond its constitutional power? Whether so long as the Constitution provides that protection furnished by the State, imposes the duty of contributing to the expense of that protection the Legislature has the power to breathe into life a corporation, endow it with rights and privileges, clothe it with the power of holding and acquiring property protect it in its life, rights, privileges, and property, and relieve it of the duty and burden of contributing its proportion to the expense of that protection?

The committee find no occasion for a change in the Constitution to effect the just assessment of taxes, but a more thorough and rigid application of the principles of the Constitution by proper legislative enactments for that purpose. From the report of the State Treasurer, the taxes constitutionally laid, appear to have been justly collected. The committee have received no information, tending to show that the public money has not been properly and lawfully expended.

All which is respectfully submitted.

JONATHAN ROSS, for Committee.

On motion of Mr. DEWEY,

*Ordered* that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

On motion of Mr. RAND, adjourned.

#### AFTERNOON.

The report of the Special Committee on Corporations was taken up, being the special order, and the question being, Shall the report as amended be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,  
CLEAVELAND,  
DEWEY,  
FIELD,

FRENCH,  
HARMON,  
HOLLISTER,

LANE,  
REED,  
ROSS—10.

Those members who voted in the negative are Messrs.

POWERS,                      RAND—2

So the report as amended was adopted.

Mr. DEWEY called up the resolution relating to the employment of a reporter, and the question being, Shall the resolution be adopted? it was decided in the affirmative.

Mr. RAND submitted the report of the Special Committee on Biennial Sessions and Elections which had been recommended for the purpose of filling the blank in said report, said blank being filled with the following words :

ARTICLE 1. The General Assembly shall meet on the second Thursday of October biennially.

ARTICLE 2. The Governor, Lieutenant Governor, State Treasurer, Senators, and Town Representatives shall be chosen on the first Tuesday in September biennially.

ARTICLE 3. The term of office of the Governor, Lieutenant Governor and Treasurer shall continue two years, or until their successors are chosen and qualified, from the time when they shall be chosen and qualified.

ARTICLE 4. All officers required by law to be appointed by the Governor or elected by the Legislature, shall hold their offices for the term of two years.

ARTICLE 5. County and probate officers and justices of the peace shall hold their offices for the term of two years.

On motion of Mr. RAND, this report was

*Ordered* to lie, and made the special order for Saturday forenoon next at ten and one-half o'clock.

The report of the Special Committee on Woman Suffrage was taken up, being the special order, and after consideration,

Mr. REED moved that the report lie and be made the special order for Wednesday next at two and one-half o'clock.

And the question being, Will the Council so order? the yeas and nays were demanded by Mr. COLBURN.

The vote being taken, those members who voted in the affirmative are Messrs.

CLEAVELAND,	FRENCH,	RAND,
DEWEY,	LANE,	REED,
FIELD,	POWERS,	ROSS—9.

Those members who voted in the negative are Messrs.

COLBURN,	HOLLISTER,	REDFIELD—4.
HARMON,		

So the motion of Mr. REED prevailed.

By unanimous consent the report of the Special Committee on Biennial Sessions and Elections was taken up.

Mr. COLBURN moved to amend by striking out the words, "second Thursday," in the first article therein proposed, and inserting in lieu thereof the words, *first Wednesday*.

And the question being, Shall this amendment be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,	HOLLISTER,	REDFIELD,
CLEAVELAND,	POWERS,	ROSS—7.
FIELD,		

Those members who voted in the negative are Messrs.

DEWEY,	HARMON,	RAND,
FRENCH,	LANE,	REED—6.

So the amendment was adopted.

On motion of Mr. ROSS,

*Ordered* that the report lie, and be made the special order for to-morrow morning at ten and one-half o'clock, and that the Secretary procure the printing of one hundred copies of the articles of amendment proposed in said report for the use of the Council.

On motion of Mr. FRENCH, adjourned.

SATURDAY, JULY 31, 1869.

Prayer by Rev. C. A. ALLEN.

Journal of Friday read and approved.

Mr. COLBURN submitted the following report which was read and accepted :

The minority of the committee on changing the mode of proposing amendments to the Constitution, beg leave to report :

In the opinion of the minority of this committee, there were good reasons for adopting the present system of amending the Constitution in 1793, seventy-six years ago, that do not now exist. Then but very *few* newspapers, if any, existed in the State ; but few books ; our free schools were extremely limited in their means to impart education to the rising generation, and it is not to become a wonder that the leaders of that day considered it unsafe, or at least not best, to trust the amending of the Constitution in the hands of the people directly.

They looked about them, and at last borrowed and adopted a system from Pennsylvania, never adopted by another State except Vermont, and long ago discarded in the former State and a better mode substituted therefor. It is evident that the people at the present time take but little interest in amending their Constitution, nor have they since 1850. They have become so indifferent that it is a matter of doubt whether *one* in *ten* really knows and understands what our Constitution is, or how it is amended ; and the question arises, is it best or expedient to perpetuate and continue a system so little understood, and in which so little interest is manifested ? It should be brought home nearer to the people ; they should have a direct influence, instead of an indirect and remote one. This is an age of improvement, and a republican government is never wiser nor better, in our State, at least, and at the present time, than the people who elect it ; and such a government fails to answer its design when the people become indifferent to its workings.

The people of Vermont are at the present time vastly more intelligent, better informed, better educated than formerly, and no good reason exists in the opinion of the minority for not trusting them directly in the final amendments to their Constitution. They are capa-



ble of self-government, and it is eminently proper and in accordance with republican principles and democratic ideas to suffer the people to manage and control their own political affairs in their own way. They need no Council of thirteen, nor any Convention of two hundred and forty in number, the smaller number to prescribe to them what is for their interest, and the larger to say to them whether they shall have it or not. We propose to let them judge for themselves once in ten years, whether their fundamental law needs revising, and the privilege to do it by their own Legislature, and by their own votes at the ballot-box.

At the formation of our governments, both state and national, we were divided into two political parties—*Federal* and *Republican*. The former took the ground that the people were not to be trusted with the powers of self-government; the latter contended that they were safe depositaries of this power. In the first twelve years of our national government, the former, the old Federal party, ran its race, and was superseded by the latter, the Republican party, which has ever since retained its ascendancy, though some more radical ideas under the name of Democracy have from time to time been ingrafted on to the old Republican stock of principles. The Federal party in Vermont soon shared the fate of the National party, to be, however, temporarily revived for two or three years in the last war with Great Britain, when it sank out of existence and became among the things that were, but not again to be. And how it has happened that one of the *old relics* of the old Federal times has been retained until this day, so anti-republican in its provisions, can be accounted for only by the indifference and apathy of the people, and by suffering it, as it were, to pass out of memory; for it is self-evident, by the meagre vote given for this Council, and by other incidents that might be mentioned, that the people know and care but little about the changes of their Constitution.

It may be said that the Council has other duties besides amending the Constitution: they are to review the legislation of the last septennial period. But is this a sufficient reason for retaining the present system? How much has this amounted to? True, in the war of 1812, when party spirit ran to a fever heat, the Council censured some acts of our Legislature; but the acts had been passed and the effects gone by. It undid nothing, it righted nothing, so far as the action of the Council went, but the obnoxious acts themselves helped

the party making them out of power, as always will be the case ; and this is a sufficient remedy against wrong legislation. The people will change their rulers if they are found unfaithful, and the ballot-box is considered a sufficient remedy in other States, together with the powers of the Supreme Court, to right any unconstitutional legislation. The question again recurs, is it necessary, is it expedient, to keep up this cumbersome system for the purpose of reviewing past legislation ? Past experience proves that this has not been of much value throughout more than three-fourths of a century that we have practiced it.

Fourteen years ago the Council had several sessions, and proposed some important amendments, which were voted down by the Convention and all went for naught, though not so to the tax-payers. They had to foot the bills, including the building of a new State House, a serious matter to the people for which they received no benefit, except settling the question of territory instead of population, as a basis for representation in the lower House. This cannot now be altered ; the small towns will not give up this, nor does the change here proposed contemplate meddling with it. The small towns are guarded and protected in their rights by the first and second votes of the Legislature, and by a two-thirds vote at each time, and this to take place only once in ten years.

Seven years ago the Council, having the fate of the measures proposed by their predecessors, acted wiser and called no Convention. There were, however, calls from some parts of the State to abolish the Council, and to prevent committing suicide, as it is termed by some, this may have been a reason for not calling a Convention ; but is there not danger that the Legislature will some day turn upon the Council with an act of homicide, as they did in Pennsylvania, when it shall appear that this is the only remedy to rid themselves of what may be deemed a useless body ? There was a strong squinting that way fourteen years ago, by the Legislature passing a vote of censure upon the Council for exceeding, as they called it, their powers, thus assuming to review the acts of the Council, reversing the order of things, and forestalling the coming Convention, which took the instruction and voted all acts of the Council down forthwith and with very little ceremony. Thus all ended in a farce, and to the disgust of that portion of the people who understood and thought much upon the subject. Shall it be said at this day, in this

enlightened age, that we distrust the people, and dare not trust them with the final vote of approval or disapproval in changing their fundamental law? Shall we assume to know what is for their best interests better than they know themselves? I know it is said that it is well enough now, and let well enough alone. The same argument would have applied with equal force to our old turnpike wagon-roads, to the old farm machinery, against sewing-machines, in favor of spinning-wheels and hand-loom. We lived comfortably with the use of all these things, and, had we felt no desire for change and improvement, railroads, factories, the horse-mowers, rakes, tedders, and ladies' sewing-machines, would have been unknown to us, and we should have been plodding on under the old primitive system that existed at the time of the formation of this provision of our Constitution. Other Councils have sought and effected improvements. In 1835 the old State Council was abolished, and the Senate substituted. Fourteen years later our county officers were ordered to be elected by the people, instead of by the Legislature. These were recognitions of the improved intelligence of the people; and can we say there has been no improvement since those periods, and that the people are not now fit to be trusted with this proposed change? But, says one, they do not desire it; they are satisfied at it is. And why is it so? The reason is obvious. It has thus far been so remote from them, having no direct action in the matter, they have concerned themselves but little about it, and, so far as they are concerned, have let it go by default. And now I repeat, is it not desirable to educate the people to know their Constitution, to take an interest in its revision, and have a final action in this revision? Other States do it. Even in the South, where there is not supposed to be a moiety of the intelligence and education there is in Vermont, the governments require a submission of their constitutions to a vote of the people. And shall it be said that here in enlightened Vermont, a Council of Censors of thirteen men refused to submit amendments to the State Constitution to a final vote of the people? Such action seems to the minority of your committee to be preposterous and unjust. The greatest objection to the proposed change that has come to the knowledge of the minority of your committee, is *enhanced cost*, by leaving it with the Legislature to be continually tampering with constitutional questions, prolonging the sessions at great expense to the State, &c. Now we do not propose that the Legislature

shall have any power over the question oftener than once in *ten years*, which may lengthen that session one week, and the reference to the next Legislature may consume one-half week, as the second vote is merely to approve or reject by articles or sections. This is just about the same length of time that the conventions have been in session, and at about the same expense; costing in each *ten years* what is now expended in each *seven years*. Then there is the additional cost in each seven years of the several sessions of the Council, and the two primary meetings of the people to choose the Council and the members of the Convention, which by the estimate of the Committee on Biennial Sessions would be a *large item*, two days' work to each voter.

But no time is lost in the proposed change by voting at home, for it is done at the time and place of voting for State and county officers. And the expense of the proposed change must be considerably less than the present system. Of this fact the minority of your committee have not the least particle of doubt. The object of referring amendments to a second Legislature, is to give the newspapers a full year to discuss the subject proposed, and the people time to know and understand the whole matter, and they can then elect members in reference to their vote on the amendments, instruct them if they please, and afford every facility to the people to know and understand what their fundamental law is, and whether or not they desire any change.

In conclusion, the minority of your committee would appeal to the honor and sense of justice of those of the Council who do not like the change personally, to suffer it to go to the people through their Convention, if one is to be called. Let the people say by their Convention whether they want the change or not. If they vote it down there will be the end of it, and it will become a settled question. Otherwise it will be agitated again at the next septennial Council. The people will not be satisfied without an opportunity to express an opinion through a Convention, and it seems to a minority of your committee, that it is their right to have it so referred. To deny it to them, when perhaps other questions may be referred that no part of the people have asked for, would appear so manifestly improper and unjust that the minority of this committee feel bound respectfully to protest against such action.

All of which is respectfully submitted to your consideration.

J. W. COLBURN, for minority of Committee.

PROPOSED ARTICLE OF AMENDMENT SUBMITTED WITH THE FOREGOING  
REPORT.

## ARTICLE 24.

SEC. 1. The 43d section of part 2d of the Constitution is hereby abrogated, and in lieu thereof, in order that the freedom of the people may be preserved inviolate, at the annual session of the Legislature, at the beginning of each decade of years commencing A. D. 1880, the Senate are hereby empowered by a two-thirds vote of all the members present to propose amendments to our State Constitution, and send them to the House of Representatives, with a request of concurrence, which shall have power to concur or non-concur, to amend, alter or reject, and return the same to the Senate; this action to be by a two-thirds vote of all the members present; and whenever a concurrence of both Houses is effected by a like two-thirds vote, the proposed amendments shall be referred to the next annual Legislature, with no power to alter or amend, to add to or to take from, but shall within the first twenty days after its organization, vote to sanction or reject any or all the proposed amendments. This vote in each House to be a two-thirds vote of *all* the members elected to each House respectively.

SEC. 2. Whenever proposed amendments are thus perfected, it shall be the duty of the Secretary of State to send printed copies thereof to the clerk of each town and city in the State, whose duty it shall be to procure printed slips numbered to correspond with the articles of amendments and at the next freemen's meeting to make known to the legal voters thereof by reading these proposed amendments publicly in said meeting, and notify the electors of their privilege to write each his name on the back of a slip and against each article, the word *yea* or *nay*, as he may elect, and when voting for State and county officers, deposit each his slip thus written on, in a box prepared by the clerk purposely to receive them.

SEC. 3. The selectmen, town and city authorities shall count these yea and nay votes the day they are taken, the constable, clerk or one of the selectmen proclaiming the result; and the clerk shall certify by his oath that to his best knowledge and belief it is a true and correct statement, and forward the same by mail or otherwise to the Secretary of State within ten days after said meeting, whose duty it shall be to canvass these statements, and verify by his oath

the true and correct result to the Governor of the State as soon as may be ; and if it shall appear that a majority of the voters have said *yea* to the proposed amendments, or to any of them, this action shall be final, and the Governor shall forthwith issue his proclamation declaring the fact, and that the Constitution is thus amended.

SEC. 4. The House of Representatives shall have all the power now possessed by the Council of Censors to order impeachments which shall in all cases be by a two-thirds vote.

On motion of Mr. LANE,

*Ordered* that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

Mr. DEWEY, from the Special Committee on the Judiciary submitted the following report, which was read and accepted :

*To the Hon. Council of Censors :*

The committee appointed to inquire into the expediency of so amending the Constitution as to enlarge the term of office of judges of the Supreme Court, and to fix their salaries, and also to inquire into the expediency of changing the mode of their election, have had the subject under consideration, and ask leave to submit the following report :

Under the admirable working of the government devised by our forefathers, experience has shown that its functions were wisely allotted to three departments; the Legislative, the Executive, and the Judiciary; each acting independently of the others in its particular sphere, except only as there exists an inter-dependence essential to the coherence and unity of the whole.

Three important things are essential to the proper and efficient discharge of the duties distributed to the judiciary department. These are : 1st, Superior intellectual abilities, eminent learning, and moral purity in the judges ; 2d, Their exaltation above the reach of the demoralizing influences which attend upon periods of partisan strife, and which are an inherent evil in all popular governments ; 3d, Permanency of official tenure : or, as more tersely stated by Mr. Justice STORY : the judiciary "must possess wisdom, learning, integrity, independence, firmness : " or, as stated in the forcible language of Mr. BURKE, in his *Reflections on the French Revolution* : " Whatever is supreme in a state ought to have, as much as possible

its judicial authority so constituted as not only not to depend upon it, but in some sort to balance it. It ought to give security to its justice against its power. It ought to make its judicature, as it were, something exterior to the State ;” a doctrine which Justice STORY remarks, “ Every republic should steadily sustain, and conscientiously inculcate.”

By what means this is to be accomplished, is the question to be solved. It depends upon the mode of appointment, the tenure of office, the compensation of the judges, and the distribution of the jurisdiction confided to the department in its various branches, in properly constituted courts.

### 1. As to the mode of appointment.

The Constitution of the United States provides that the judges of the Federal Courts shall be appointed by the President, by and with the advice and consent of the Senate. This provision was adopted by the wise framers of that instrument upon very grave and thorough deliberation. And no proposal of amendment in that respect has ever been made, or even suggested, to the knowledge of your committee, since the foundation of the government. On the contrary, its wisdom has been universally recognized. And most of the States of the Union have, with more or less exactness, followed the example of the parent Constitution in this particular.

The advantages of this mode of appointment, as being peculiarly fit and proper in respect to the judiciary department, are thus clearly stated by Chancellor KENT : “ The just and vigorous investigation and punishment of every species of fraud and violence, and the exercise of the power of compelling every man to the punctual performance of his contracts, are grave duties ; not of the most popular character, though the faithful discharge of them will most certainly command the calm approbation of the judicious observer. The fittest men would probably have too much reservedness of manners, and severity of morals, to secure an election, resting on universal suffrage. Nor can the mode of appointment by a large deliberative assembly be entitled to unqualified approbation. There are too many occasions and too much temptation for intrigue, party prejudice, and local interests, to permit such a body of men to act, in respect to such appointments, with a sufficiently single and steady regard for the general welfare.” And Chancellor KENT, in his Commentaries,

speaks of experiments previous to the time of his writing, in some of the States, of electing the judges by a popular assembly, as having been unsatisfactory in their results. And it is matter of general knowledge that the experiment of popular elections of these officers in some of the States at the present time, as in New York and Pennsylvania, has tended to the demoralization, in some striking instances, of the bench and the courts. And the recent convention of the State of New York has proposed an amendment to the constitution, providing for the appointment of the judges by the Governor, by and with the advice and consent of the Senate, after having once abandoned that mode for the elective system, and seen its failure conspicuously illustrated.

It is doubtless true that the jealousy, which has been manifest in some degree in a portion of the people of this country, of placing the power to appoint the judges in the Executive, and a select advisory body of wise men, had its origin in the well-known fact of history that for centuries the English judges had been appointed by the Sovereign, and were in many instances the vilest and most abandoned creatures of his caprice and will, in upholding unconstitutional encroachments upon the rights of the subject people, as illustrated in the life of the notorious Jeffries. But our forefathers, in framing the Constitution under which we live, did not fail to perceive that the theory of our system of government is the very opposite of that of Great Britain. While they preserved in the frame of our government some of the principles and even modes of the latter, they nevertheless knew that while under the British Constitution all sovereignty resides in the King, the very reverse is true as to the government erected for America. The American idea being that the people are sovereign, and that while all supreme human power is lodged in the people, the ruler, for the time being, is nothing but their servant. Under a government, therefore, established upon such a theory, there could no longer exist any cause for apprehension that the judges, though appointed by the Executive, would be the creatures rather of his will and caprice, than the faithful servants of the people in whom all sovereignty reposes, and whose creature the Executive is, as fully as are the judges themselves. And this reasoning brought them to the conclusion that while no evil results need be apprehended from reposing the appointing power of the judges in the Executive and Senate, as there might be under the British system of government, the whole value of that manner of appointment



in securing in the judges that cluster of shining qualifications enumerated by Chancellor KENT : wisdom, learning, integrity independence and firmness, remained intact and unimpaired by any apprehended encroachments of a sovereign ruler.

It is doubtless true that the early settlers of Vermont, who framed the original Constitution of the State, owing to reasons peculiar to their situation and trials, encroached upon as they were, not only by the parent government across the sea, in common with all the other colonists, but also by a neighboring State, imbibed the democratic idea more fully, and carried it to a greater extent in all the details of governmental provision than the people of any other State ; and this is doubtless the explanation of the adoption by them of the mode of electing judges as it now exists, instead of following the wiser method adopted by the great and patriotic men who framed the Federal Constitution, and who loved liberty no less than did the hardy pioneers of our State, and were no less jealous of all possible encroachments upon it.

And it is obvious to remark that while the method of electing judges by popular assemblies and by universal suffrage has worked disastrously in other States that have tried those methods, the State of Vermont has hitherto in the main, though with some exceptions, been singularly exempt from the consequences which the experience of other States might have led us to apprehend. But this exemption is owing not so much to the wisdom of the mode of election as a general rule, as to circumstances which have been strikingly peculiar to Vermont, and not found in any other State. Those peculiarities inhered in the steady good sense, the industry, frugality simplicity in all the appointments of domestic life, and the virtue and intelligence of the whole mass of the population, who were mainly emigrants from among the most enterprising citizens of the older New England States. But though these characteristics have continued in a large measure to distinguish the inhabitants of the State, and though we may point with pride to the previous working of the present mode of electing the judges, and to many illustrious names of those who have adorned the bench, in the apprehension of your committee the time has arrived in the growth of the State in population and wealth, when we may not expect to be exempt from the evils which have usually resulted in other States from the popular election of the judges. Our population is not so homogeneous. There is no

reasonable prospect that we shall be so distinguished as we have been in the past, with the exception of one or two memorable instances, for exemption from the bitterness which attends party strifes. And what is more, there has been a great change in the quiet simplicity of the pursuits of the people. While those pursuits are still mainly agricultural, vast corporations have traversed the State from border to border with railroads, and capital is armed with that power which comes from concentration, and which, when thus wielded, is all powerful in accomplishing the selfish purposes of its owners.

It is too well known that none of our legislatures are now free as formerly from the powerfully corrupting influences which have thus grown up within the State. And these influences are becoming more and more powerful, and unless firmly resisted by the stalwart firmness of a virtuous people, will invade with their malign power—malign when thus perverted—every department of the government in which their interests are involved, or are on trial. That these corporations could and would, on occasion arising, exercise a very controlling influence on the Legislature in making and unmaking our judges, and so indirectly on the judges themselves; as the office may become, ere long, the foot ball to be kicked about in party contentions, and the judges thus become the victims of the infirmities of human nature that belong to even the best of men through exposure to many temptations, it is the judgment of your committee that these apprehended evils should be avoided by an amendment of the Constitution which shall give their appointment to the Governor and Senate.

Another obvious advantage of the proposed method of appointing the judges consists in the better opportunities which would be possessed by the Governor to ascertain the fitness of individuals proposed for the office in respect to each and all the various rare qualifications, hereinbefore enumerated, that can be possessed by a body of men whose very election under which they will be called upon to discharge this duty, occurs only a few weeks before they are required to exercise it, very many of whom, though men of practical judgment, and good sense, and uprightness of intention, will be wholly unacquainted, it may be, with the candidates proposed for judges, or with their qualifications, simply from the want of opportunity, their pursuits in life rarely bringing them in contact with the courts or its practitioners. And under the present system it may happen that some person, amiable in respect to all that constitutes

the pleasing gentleman, but yet deplorably destitute of all, or of many of the essential qualifications of an excellent, or even moderately efficient judge, will become ambitious for the place, and procure himself to be elected to the Legislature for the very purpose of influencing its members to bestow, by the usual appliances and arts of pleasing address, and adroit supplication, the very mask of apparent indifference which it often wears, making it still more effective in procuring the bestowment of the office upon himself. Or if not done through his own personal efforts, it may be done by an irresponsible friend, more anxious to do a good turn to his neighbor, than to secure a well qualified officer for the State. But in the case of the appointment by the Governor, the circumstances are bravely altered. He is to be responsible to all his constituents for the faithful, honest and fearless discharge of this the most important of all his duties. He will know that if he makes a bad appointment, the curses will fall upon his head, rather than upon the appointee. Should he attempt to elect some favorite, destitute of the qualifications required of an efficient judge, he would know that he would have the indignant frowns of all the wisest and best men in the State to meet. This condition of things, therefore, would constitute an irresistible motive to a good man,—and we elect no others to our chief executive office in this State, and do not expect to do so,—to be over circumspect, if anything, in making the most searching inquiry into all the things that should be required to enable him to form a correct judgment, in respect to the fitness of the candidate to be proposed by him for the office. And so of the Senate. If an instance should possibly occur, of the nomination by the Governor of an unfit person, seduced so to do by the over importunity of interested parties with whom he is closely related by ties of kindred or of interest, the Senate would well know that if they confirmed the appointment they must share the responsibility of it equally with the Executive. And this consciousness would be a most powerful motive to restrain their action. Indeed, these advantages of the proposed method of appointment have been universally conceded and recognized by the wisest and best men in our country, from the organization of its government to the present time, and needed not to have been enforced at such length even, as we have attempted to do.

On the other hand, the motive arising from this sense of responsibility is almost entirely lost under a system of annual elections in a popular assembly, and where the responsibility, instead of being con-

centrated upon a few, is attenuated and dissipated, by distribution, to a body so large as the General Assembly of Vermont.

The notion that by conferring the appointment of the judges upon the Governor and Senate, the people will surrender up, in any degree, the exercise of their essential sovereign power, is based upon no other foundation than the mere unsubstantial creation of the imagination. It is a function, conferred by the people for good reasons upon their own servants, the Governor and senators, servants who are required to be, by a provision of the Constitution, "men most noted for wisdom and virtue," and to be discharged under a fearful responsibility, that of the abiding execration of the people while living, and of the historian, it may be, after their decease, if not most faithfully, ably, and honestly performed.

The people are busily employed about their personal affairs, and accumulating a provision for old age. They say to their servant, the Governor, go and find us the best man in the State to discharge the duties of the office of judge, and be careful that you discharge this duty faithfully. And to the senators: we have employed you because of your peculiar qualifications and opportunities to judge as to the fitness of persons to fill the office of judge, to act as an advisory body to the Governor, in their selection and appointment, and we direct you to make exhaustive inquiry into the fitness, in all particulars, of such persons as the Governor may nominate, and we will hold you to a stern accountability likewise in the performance of this important trust. Is not this the attitude rather of sovereigns toward their subjects, than of menials toward their lords?

But there is still another aspect in which this objection may be viewed, and which will, if possible, still more strikingly illustrate its utter fallaciousness. Under the present mode of choosing judges, the people themselves do not exercise any direct voice. They are elected by a body of representatives constituting the two branches of one department only of the government. This is not, then, a question as to the surrender by the people of the privilege of electing the judges by their own ballots, but as to whether it is wise to transfer the appointing power *from one class of the people's representatives, and from a class not elected upon the basis of popular representation, except in small part, to another which is elected upon that basis.* It is to leave with one co-ordinate branch of the Legislature the same power to participate in the election of judges it now possesses, only that its power is to be exercised negatively in case its choice does not

accord with that of the Executive. And then in place of the other co-ordinate branch of the Legislature, there is substituted for the performance of this important function, the Chief Magistrate of the whole people—the head of an entire co-ordinate and co-equal department of the government,—thus virtually securing the united action and concurrence of two departments, instead of one, in the selection of those who shall fill the offices in the judicial department. The advantage of dividing this responsibility between two departments is obvious in the restraint which each will exercise over the action of the other, thus preventing hasty and unfit appointments. And it is not to be forgotten that it has always been regarded a serious objection to reposing the choice of judges solely in that department which makes the laws, the constitutionality of which the judges who are dependent upon the body that enacted them, and on which they must rely for the seats they hold, will be called upon to pass.

Still another thing in this connection, peculiar to our own State will demonstrate the entire absence of any basis whatever upon which to place the objection under consideration. Under our present frame of government, while each voter has an equal voice in the election of the Governor and senators, it is far otherwise in the election of the members of the House of Representatives. The members of the latter body, instead of being elected *by the people*, in the sense of each voter exercising an equal voice, are elected by a congeries, so to speak, of municipal corporations, each corporation having an equal voice. The one of them, as for instance, Goshen, may have no more than five hundred inhabitants, while another, as for instance the town of Rutland, has fifteen thousand. It is plain to be seen that under this unequal system of representation, the five hundred inhabitants of Goshen may neutralize by the vote of its representative, for judge, the choice of the fifteen thousand inhabitants of Rutland; in other words, setting the five hundred inhabitants of the former town against an equal number of the inhabitants of the latter, leaves fourteen thousand five hundred inhabitants of Rutland without any voice whatever in the choice of the judges who are to sit in final judgment upon her vastly greater interests, that frequently become involved in litigation, while the inhabitants of Goshen rarely have use for a judge at all. Thus Goshen, with a population of only five hundred souls, with scarcely ever a law-suit before the Supreme Court, virtually casts thirty votes for each of our judges, making one hundred and eighty votes for the six comprising the present bench.

while Rutland, with a population of about fifteen thousand, having interests so vast and complicated as to require the frequent adjudication of the judges of the last resort, casts but *ONE vote for each judge, and SIX votes for all!* And this only illustrates the uniform inequality of the system, the only difference being in the degree. So that practically, by this method of electing judges, they are chosen by corporations, greatly unequal in membership and wealth, through the action of their agents, called—or rather mis-called—the representatives of the people. Is there any sense, therefore, in claiming that by the proposed change of the mode of electing the judges, the equal and popular rights of the people are to be invaded? On the contrary, will they not be secured? While, then, the towns are not asked to yield up the principle of equal representation as corporations in that branch of the government entrusted with the entire power of making the laws, shall it be thought a matter of complaint that it be asked that *the people* shall have an equal voice, through their popularly elected Governor and Senate, in the election of the judges who are to sit, it may be, upon their dearest rights? Shall the corporation with five hundred inhabitants not only have thirty votes to one for the corporation with fifteen thousand in the making of the laws, but also thirty votes, to one for the other, in the choice of the judges who are to sit in judgment upon those laws? Will any one have just cause for complaint that this unequal power shall in one of these two instances in which it is now exercised, be placed in the hands of others who *are* elected by the free and equal voice of the people?

The population of the State by the census of 1860 was 315,098. Of this number only 93,157 resided in a majority of one, of the small towns, and 221,941 resided in a minority of one, of the larger towns thus giving the power to 93,157 of the whole population of 315,098 to control in the election of judges.

Your committee, to avoid any possible misapprehension, beg leave to say, that they do not intend this report shall be regarded as an assault upon the system of town representation. Though that system is copied from the old English borough system, and the representation is of communities composed of populations of unequal numbers, and does not represent the equal voice of the people, as already seen; yet it stands at present upon defensible reasons growing out of traditional usage, local town pride, unification of the interests of the people inhabiting the same town, and having corporate interests

demanding legislative protection or encouragement. But the point we are making is, that while this mode of representation, for the reasons given, is defensible in respect to the power of the Legislature to make the laws, it is wholly indefensible, being unequal and corrupting, in respect to its power to create the judges who shall sit in judgment upon the laws made by a body so constituted. It is clear to the apprehension of your committee, that the true way to keep the one-half of the towns, having the largest relative population, satisfied with the present system of representation—that is, the giving the half of the towns, having the minority of the population, nevertheless, an equal voice with the larger towns, having a vast majority of the population, in the legislation of the State,—is the graceful relinquishment, by the smaller towns, of a right to a like controlling voice in the election of the judges who are to sit in judgment, not only in all cases affecting the people at large and individually, but also upon the laws enacted by the minority of the people. Should the small towns, therefore, show a disposition to grasp and hold on to this double power of making the laws and of interpreting them likewise, over the heads and against the clear natural rights of the majority, it would, in the opinion of your committee, create in the minds of the majority such a sense of wrong and injustice, that at last both the borough system of representation, and its power of appointment, will be swept away before the rising and irrepressible indignation of the people at the manifest wrong. On the other hand, with this concession made, thus giving the people an equal voice in the election of the officers of one co-ordinate department of the government, of which they are now deprived, the town system of representation may remain undisturbed for years to come, and until the population of the towns shall become so very unequal as to lead to universal conviction that justice demands a change.

For the reasons hereinbefore set forth, and others of minor importance not necessary to allude to in this report, your committee are unanimously of the opinion that the Constitution should be so amended, as to provide for the appointment of the judges of the Supreme Court by the Governor, by and with the advice and consent of the Senate.

2. The second condition to be secured, depending for its accomplishment upon the method of filling these high judicial offices, namely, the exaltation of the bench above the reach of the demoralizing influences which attend upon periods of partisan strife, and

influences of a kindred sort, has already been sufficiently considered in the discussion of the mode of appointment. It is the judgment of your committee that this desirable end will be attained by adopting the mode recommended.

3. The third condition, that of permanency of official tenure, remains for brief consideration. In the judgment of your committee the office should be in some degree permanent. The independence of the judges is essential to the fearless discharge of their duty, and can be secured in no other way. In the language of Chancellor KENT: "It is salutary in protecting the Constitution and laws from the encroachments and tyranny of faction. Laws, however wholesome or necessary, are frequently the object of temporary aversion, and sometimes of popular resistance. It is requisite that the courts of justice should be able, at all times, to present a determined countenance against all licentious acts; and to deal impartially and truly, according to law, between suitors of every description, or whether the cause, the question, or party, be popular, or unpopular. To give the firmness and the courage to do it, the judges ought to be confident of the security of their station. Nor is an independent judiciary less useful as a check upon the legislative power, which is sometimes disposed from the force of passion, or the temptations of interest, to make a sacrifice of constitutional rights; and it is a wise and necessary principle of our government that legislative acts are subject to the severe scrutiny and impartial interpretation of the courts of justice, who are bound to regard the Constitution as the paramount law, and the highest endeavor of the will of the people." Upon this subject your committee would call the attention of the council to an article of great force and clearness contained in the *Federalist*. We find room in this report for only a single extract: "There is yet a further and weighty reason for the permanency of judicial offices, which is deducible from the nature of the qualifications they require. It has been frequently remarked with great propriety that a voluminous code of laws is one of the inconveniencies necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents, which serve to define and point out their duty in every particular case that comes before them. And it will readily be conceived, from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of



those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them. Hence it is that there can be but few men in the society who will have sufficient skill in the laws to qualify them for the station of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge. These considerations apprise us that the government can have no great option between fit characters; and that a temporary duration in office, which would naturally discourage such characters from quitting a lucrative line of practice to accept a seat on the bench, would have a tendency to throw the administration of justice into hands less able and less qualified to conduct it with ability and dignity."

Every line of the foregoing extract from the Federalist, the production of the pen of JOHN JAY, who afterwards made the bench of the Supreme Court of the United States forever illustrious by his occupancy of it as Chief Justice, is as applicable to our State as to any other, and it has never been denied or called in question by any jurist or statesman, worthy of the name, who was either contemporaneous with, or has succeeded him.

Fully concurring in these views, your committee have adopted them as a guide in fixing upon the tenure of office of the judges of the Supreme Court. But your committee have not thought best to recommend that the tenure should be for life, as is the case in respect to the Federal Judiciary. They are of the opinion that a shorter period will best meet our peculiar condition, and best accord with the prevailing judgment of our people. Your committee recommend the period of six years as being the proper mean; and that the appointments shall be so made, as that the terms of two of the judges shall expire in every alternate year, in the event that a provision for biennial sessions of the Legislature shall be adopted, or one in every year if not adopted.

Closely connected with this branch of the subject is the question of compensation. Your committee think it proper to recommend that the Constitution be so amended as to provide that the judges of the Supreme Court shall, at stated times, receive for their services a reasonable compensation, which shall not be diminished during their continuance in office. The reason for which is thus, in sub-

stance, succinctly stated in the article in the *Federalist*, before referred to : "In the general course of human nature, a power over a man's substance amounts to a power over his will. And one can never hope to see realized in practice the complete separation of the judicial from the legislative power, in any system which leaves the former dependent for pecuniary resource on the occasional grants of the latter. The enlightened friends of good government in every State, have seen cause to lament the want of precise and explicit precautions in the State constitutions on this head."

It is not to be forgotten that judges are subject to the infirmities of human nature, after being placed upon the bench, the same as they were before. An appointment to office changes nothing that is inherent in the nature of human beings. A judge ought to be able to treat the parties to a cause, be they president or beggars, with the same indifference with respect to being influenced by them, that the mathematician does the algebraic signs with which he works out his problem. But we have no reason to suppose that judges will be altogether uninfluenced, under the elective system, by the consciousness that they may be dependent for a re-election upon the caprice of men to be humored, upon partiality bestowed on the great and influential, and upon sycophantic fawnings lavished upon those who strut in the illy worn plumes of brief authority. It is true a man of honor would scorn these practices; but the danger is that in scorning them he runs the risk of losing his position, to make way for one more pliant to such practices.

While your committee have thought it proper to provide, by an amendment, that the salary of the judges shall not be diminished during their continuance in office, they have not thought best to fix the amount by constitutional provision. The fluctuations in the value of money and in the price of articles of merchandise, render a fixed compensation inadmissible. But your committee feel warranted in saying that, in the opinion of your committee, the present salary of the judges is inadequate. It is true that in exceptional instances, as when the judge has no family, or possesses a large fortune, it might be called sufficient. But it is usually the case that the judges are not composed of persons belonging to these classes. They are, or should be, when appointed, in the earlier middle period of life, before they have been permitted to reap the rewards of professional labor to the extent to place them in a position of pecuniary independence.

If one be called to the bench at that period of his life, it will put upon him the necessity of giving up all the pecuniary rewards, into the enjoyment of which he is about to enter, and from which he hopes to save a reasonable competence for old age. To induce such a lawyer to leave his professional walk, and accept a seat upon the bench, the compensation must be sufficient to enable him to do so with a reasonable confidence that it will cover all the expenses of current life, including the maintenance and education of his children suitably to his station, and to enable him to lay by a sufficiency for that day when, having served the State with eminent ability in his high office, he must lay aside its robes, and sit down in the decrepitude of age to enjoy until his final departure, full of honors, the well earned fruits of his toils. Without holding out this prospect in the form of an adequate salary, the best talent and accomplishments cannot be secured. By making it, not lucrative, but simply remunerative, the ablest lawyers,—those in all respects best qualified for the bench,—can be secured. When corporations and princely merchants have large interests involved in litigation, they wisely employ the ablest counsel that money can procure, to guard, protect and defend their rights. The State has more vast and laborious duties to be performed than any private individual can impose upon a counsellor, involving greater interests, and requiring the ability of those most eminent for talent, experience, learning and integrity, whose services can be procured by the same means that secure them to the corporation or the merchant. The judge needs to be at least the peer of any lawyer who appears before him. What assurance has an humble and honest man, dragged into court by the oppression of an influential and powerful adversary, who employs the most distinguished counsel to be found within the range of the State, if the judge, instead of being the equal of the attorney in talent, learning and fearlessness in the discharge of his duties, is weak, and has acquired but a smattering of the knowledge of the law? He is simply overpowered by the superior force of the intellect and will that is brought to bear upon him, and if a correct decision is arrived at, it will be a providential escape of the humble suitor from causes he may thank a good Providence for, but which cannot be explained in the light of human experience. Place an inferior lawyer on the bench, and one of two things will inevitably follow. He is still what he was before his appointment. His regalia of judge has not added one iota to his stature, nor to the powers of his mind. It is certain that his highest

ambition will be to win the favor of the influential and powerful members of the bar, and to stand in good favor with those in the community who control the disposition of the prize which by some accident he holds. Since he has not the qualities to win the respect and the fear of these, he will at least win their favor by being gracious, and pliant and fawning towards them beyond the verge of that dignity and decency which should ever adorn the bench. When a farmer looks for a workman for the season, he selects the best he can get, at the highest going price, as a matter of economy, which he has learned by experience. If he wishes to build a mansion, he enquires for and employs the best architect and the best builders that the place affords, and he sees the economy of doing so, in the regular progression of the work from foundation stone to pinnacle, in the regular architectural order of the different parts of the building, and the steady, rapid progress of its construction. And he never doubts the economy of paying the highest price, though he knows there are plenty of architects and workmen who could have been hired for half the price, it may be, but who would have erected for him a building scarcely worth half the money. There is necessity, too, for erecting a harmonious structure of jurisprudence. In its rearing we should obey certain lines and laws as absolutely as the architect obeys the law of architectural proportion and beauty. Not a column should be leaning, not a window misplaced, and then the whole should be properly adorned and furnished with all the shining qualities of purity and independence that blanch not in the face of wrong, though armed with weapon or bribe. Why not, then, observe the same rule in the selection of the architect of this imperishable structure that is observed when you employ an architect to build your material and perishable dwelling? Is there any reason?

Moreover, it is undoubtedly true that the money saved by a prompt, energetic, efficient discharge of the duties of the office, thus limiting the duration of the terms of court, and saving the expense of the attendance of jurors, officers, and other attendants, witnesses in State causes, fuel, etc., would compensate the State, ten times over, for what shall be paid in an increased salary. It is a shortsighted, narrow and miserly policy to exclude from the bench the men best qualified for the performance of its weighty duties, by fixing the salary so low that to accept it would involve the sin of negligence of that first of all duties which a man is bound to regard, the duty of maintaining, educating and preparing for life, those whom

God in his providence has made dependent upon him by the closest and dearest of human ties. Such a policy can only properly be characterized as being that of saving at the spiggot and wasting at the bung. A more careful husbandry of time on the part of the members of the Legislature for the past few years, less frequent adjournments to meet their own mere convenience, would be better far in the matter of the practice of a wise economy, than grudgingly eking out a salary to their hard-working servants on the bench, so small that they are, some of them, compelled from very necessity to disclose to the committees of that body that their children go barefooted to school for the want of a salary adequate, with the greatest observance of economy possible, to enable them to purchase shoes for their feet. These things have been true, and are disgraceful to the State which suffers them to be. In the discharge of the duties of the office, the judge is obliged for a considerable portion of every year, to be away from home at a constant expense. In his absence he must employ some competent man to have the care of his family, and his affairs. It necessitates the adding one servant at least to his help, the year around, and reduces the salary by so much as it takes to pay for it. Surely a competent and hard-working judge,—no public servants are called upon to perform such difficult and wearying and exhausting labor,—should receive such a salary as will enable him to have all the essential enjoyments of life, and the competence for the later years of his existence that he would have enjoyed had he not consented, at the call of the State, to serve her in her highest and most important interests. And then the harrassing forbodings of evil days to come, the minute calculation as to how to make a penny go farthest in supplying the actual wants of current life, from day to day, and from hand to mouth, has a tendency greatly to impair his usefulness and efficiency in his office.

Every consideration requires that this wrong should no longer continue. Careful not to make the office one of such emolument as to be sought after by any man competent for the place, from motives of gain, the Legislature should be equally careful, on the other hand, to see that it is a reasonable and just compensation for the service rendered.

In conclusion, as peculiarly applicable to the plan herein recommended for adoption, your committee would commend to the especial attention of this Council, the wisdom of the following words of a most learned jurist of great eminence in both hemispheres: "To

those who are alive to the just interpretation of the Constitution ; those who, on the one side, are anxious to guard it against usurpations of power, injurious to the states ; and those who, on the other side, are equally anxious to prevent the prostration of any of its great departments to the authority of the others ; no language can ever be unseasonable that shall warn us of the facility with which public opinion may be persuaded to yield up some of the barriers of the Constitution under temporary influences, and to teach us the duty of an unsleeping vigilance to protect the branch, which, though weak in its powers, is yet the guardian of the rights and liberties of the people."

Your committee append hereto an article embracing the proposed amendments.

CHARLES C. DEWEY, for the Committee.

ARTICLE ———

SEC. ———

On motion of Mr. REED,

*Ordered* that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

The report of the Special Committee on Biennial Sessions and Elections was taken up, being the special order, and on motion of Mr. RAND, the report was amended by adding to the articles therein proposed, the following :

"ARTICLE 6. The Legislature shall provide by law for filling vacancies in office happening from any cause, during the term of office of the incumbent."

On motion of Mr. POWERS, Article 5 was amended by inserting before the words, "county and probate officers," the words, *senators and town representatives*.

On motion of Mr. LANE,

*Ordered* that the report lie.

Mr. POWERS moved that when this Council adjourn it adjourn to meet on Monday next at 2 o'clock, P. M. ;

Which was agreed to.

On motion of Mr. POWERS, adjourned.

MONDAY AFTERNOON, AUGUST 2, 1869.

Journal of Saturday read and approved.

On motion of Mr. POWERS, a call of the Council was ordered, and the roll being called, the following named members answered to their names, to wit: Messrs.

CLEAVELAND,	FRENCH,	POWERS—5.
FIELD,	HOLLISTER,	

The following named members failed to answer to their names: Messrs.

COLBURN,	LANE,	REED,
DEWEY,	RAND,	ROSS—8
HARMON,	REDFIELD,	

The absentees being summoned, by order of the Council, Messrs. REDFIELD and REED appeared and took their seats.

A quorum being present, further proceedings under the call were abandoned, and Mr. CLEAVELAND called up the report of the Special Committee on Biennial Sessions and Elections.

On motion of Mr. CLEAVELAND, the fifth article of the proposed articles of amendment was amended by striking out the words, "and probate officers," and inserting in lieu thereof, the words, *officers, judges of probate*.

Mr. CLEAVELAND moved to strike out Article 4 of the proposed articles of amendment, and pending this motion, the report was, on motion of Mr. FRENCH,

*Ordered to lie*, and made the special order for to-morrow morning at ten o'clock.

Mr. FRENCH, from the Legislative Committee, submitted the following report, which was read, accepted, and ordered to lie:

*To the Hon. Council of Censors:*

Your committee, who were instructed by a resolution of this body to enquire whether the provisions of the 94th Chapter of the Gen-

eral Statutes, relating to the traffic in intoxicating drinks, have been duly enforced, and if it be found that said provisions have not been so enforced, to report as to the causes of said failure, report :

That they have attended to the duty assigned them, and find that the law is not and has not been duly enforced. As to the cause, your committee find that this law, like many others on our statutes, is one whose execution the public does not demand ; and officers, whose duty it is to enforce the law, are very willing to be relieved of that duty if the public does not demand its enforcement.

N. W. FRENCH, for Committee.

On motion of Mr. FRENCH, adjourned.

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TUESDAY, AUGUST 3, 1869.

Prayer by Rev. C. A. ALLEN.

Journal of Monday read and approved.

The President announced that, under a resolution of the Council providing therefor, he had appointed

COL. A. C. BROWN, Reporter.

The report of the Special Committee on Biennial Sessions and Elections was taken up, being the special order, and the question being upon the motion of Mr. CLEVELAND to strike out the fourth article of amendment therein proposed, the report was, on motion of Mr. CLEVELAND,

*Ordered to lie.*

Mr. COLBURN introduced the following resolution, which was read and adopted :

*Resolved*, That the Special Committee on Woman Suffrage be instructed to enquire into the justice and expediency of so amending the Constitution, as to require that every voter shall be able to write and read his or her vote, intelligibly, no person to exercise this franchise without such qualification.



Mr. RAND, from the Special Committee on Woman Suffrage, submitted the following report, which was read and accepted :

*To the Council of Censors now in session :*

The Committee on Woman Suffrage, to whom was referred the following resolution, viz :

*Resolved*, That the Committee on Suffrage be instructed to inquire into the expediency of amending the twenty-second section of Part Second of the Constitution, so as to read as follows :

“SEC 22. The inhabitants of this State, without distinction of sex, shall be trained and armed for its defense, under such regulations, restrictions, and exceptions as Congress, agreeably to the Constitution of the United States and the Legislature of this State shall direct. The several companies of militia shall, as often as vacancies happen, elect their captain and other officers, and the captains and subalterns shall nominate and recommend the field officers of their respective regiments, who shall appoint their staff officers. And no person shall be disqualified to hold any military office on account of sex ;”

Having considered the same, respectfully report :

Your committee are aware that this resolution was introduced for the purpose of trying the effect of ridicule upon the claim of woman to suffrage, and in the dearth of substantial argument against it. But, as the Council has entertained the resolution, and referred its consideration to this committee, we have given it that attention that the dignity of the Council and the subject seem to require.

The idea that the right of voting, and the ability to bear arms have any necessary connection, has come down to us, like many other antiquated and absurd notions of prejudice and folly, from the feudal times of our ancestors ; and it has for its foundation all the reasons of feudal servitude and no other. The condition upon which the tenant held his lands of his superior, was that the tenant should serve his master in the field. None but males could perform this service. So when the tenant became a freeman and a voter, by virtue of the ownership of his land, the idea of military service continued to be attached to the new relation.

But in our days, men do not have to bear arms in order to own land or vote. The mover of the resolution may never have shouldered a musket in the militia, or volunteered to fight Southern rebels, yet he votes unchallenged. Quakers do not fight, yet they vote.

When the rule has not been applied to men for more than a hun-

dred years, it is quite as far removed from the chivalrous as it is from all logical sequence, to claim that as women cannot fight, therefore they can not vote.

A nation would be foolish, when in war, to put women in the ranks, and not avail itself of the superior strength of muscle of its men, and the peculiar aptitudes of its women, where they tell most against the enemy. And in war women render a service to their country as necessary as that of men. They care for the families at home. They tend and nurse the sick in hospital. They brave contagions more dangerous than the bullets of a battle. What woman does, at the backs of soldiers in the field, is as essential to sustain them in heart and vigor as the provision train itself.

The services of Florence Nightingale in the Crimea were of more value to the British army, than those of the whole six hundred who charged at Balaklava.

Miss Nellie Gillson, of Chelsea, contributed as much to the success of our armies against Southern rebellion, as any score of the stalwart soldiers of the old Bay State.

In peace or war, our country has better use for her women than to marshal them for the field. It can educate them as they have a right to be educated; it can give them the ballot equally with men. It can then avail itself of their rare insight, virtuous aspirations, and disinterested patriotism in the government of our country. It can thus rid politics of much of their virulence and corruption. For this service we think we can see in woman an eminent fitness, and one not inconsistent with the peculiarities or employments of her sex.

Your committee therefore do not recommend the adoption of the proposed amendment.

J. RAND,	} Committee.
CHARLES REED.	
H. HENRY POWERS,	

Montpelier, August 3, 1869.

On motion of Mr. DEWEY,

*Ordered* that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

The report of the Special Committee on Biennial Sessions

and Elections was again taken up, and Mr. CLEAVELAND, by leave, withdrew his motion to amend by striking out the fourth article of amendment therein proposed.

On motion of Mr. REED, the report was amended by substituting for all of said articles of amendment, the following :

ARTICLE OF AMENDMENT NO. —

SEC. 1. The General Assembly shall meet on the first Wednesday of October, biennially ; the first election shall be on the first Tuesday of September, A. D. 1870 ; and the first session of the General Assembly on the first Wednesday of October, A. D. 1870.

SEC. 2. The Governor, Lieutenant Governor, Treasurer of the State, senators, town representatives, assistant judges of the county court, sheriffs, high bailiffs, state's attorneys, judges of probate and justices of the peace shall be elected biennially, on the first Tuesday of September, in the manner prescribed by the Constitution of the State.

SEC. 3. The term of office of the Governor, Lieutenant Governor and Treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of two years, or until their successors shall be chosen and qualified, or to the adjournment of the session of the Legislature at which, by the Constitution and laws, their successors are required to be chosen, and not after such adjournment.

SEC. 4. The term of office of senators and town representatives shall be two years from the day of their election.

SEC. 5. The term of office of the assistant judges of the county court, sheriffs, high bailiffs, state's attorneys, judges of probate and justices of the peace, shall be two years, and shall commence on the first day of December next after their election.

SEC. 6. The Legislature may provide by law for filling any vacancy that shall happen in any of the above-named offices.

On motion of Mr. REED, section six of the proposed article of amendment was amended by striking out the words "above named," in the second line, and inserting after the word "offices," the words, "*named in this article.*"

Mr. POWERS moved that the Council resolve itself into a

Committee of the Whole for the purpose of considering this report.

And the question being Will the Council so order? the yeas and nays were demanded by Mr. COLBURN.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,	REED,	POWERS,
CLEAVELAND,	HARMON,	RAND,
FIELD,	HOLLISTER,	REDFIELD—10.
FRENCH,		

Those members who voted in the negative are Messrs.

DEWEY,	LANE—2.
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So the Council resolved itself into a Committee of the Whole.

The Committee of the Whole having arisen, reported by their chairman, Mr. REED, that they had considered the subject referred to them, and made some progress; and asked leave to sit again at 2½ o'clock this afternoon, and the report was accepted, and leave granted.

On motion of Mr. RAND, adjourned.

## AFTERNOON.

Mr. POWERS submitted the following supplemental report, which was read and accepted:

*To the Honorable Council of Censors, now in session:*

The majority of the special committee to whom was recommitted the report heretofore made upon the subject of abolishing the Council of Censors, would respectfully submit the following supplemental report:

The only mode of proposing amendments to the Constitution suggested by the minority of your committee, is to refer the same to the Legislature; and it is argued that the Legislature is a safer, cheaper and more democratic tribunal than the Council of Censors for this purpose. Our Constitution was framed for the *whole* people. It is

the organic law which governs not *municipalities*, but *the people* of municipalities, and as such, ought to be beyond the reach of municipalities to control. The Council, as now constituted, are elected by *the people*, on a general ticket; and a small town with one hundred voters cannot neutralize the voice of a town with ten thousand inhabitants in selecting the Council. Theoretically, then, the Council created by the people themselves more emphatically represents the popular voice than any other tribunal in our frame of government. This was unquestionably the idea of the "fathers" in creating the Council. In the opinion of your committee they ought to have gone one step further, and provided that the Council should submit proposed amendments to the people directly or to a Convention chosen in some manner that would represent the people, and not the towns of the commonwealth. Under the existing Constitution it is questionable whether the Council can order a Convention called on any basis other than that of *town* representation. Such has been the usual practice, and Conventions have been composed only of delegates chosen by the several towns; and thus a small town with fifty voters has the same voice in saying what the organic law of the *whole people* shall be, as the town of Rutland has with its fifteen hundred or two thousand voters. If this construction of the Constitution is correct, it is obviously unjust and wrong; but your committee are of opinion that the Council of Censors have the power to call a Convention composed of delegates chosen on the basis of population—in other words, the delegates may be apportioned to the different counties as senators are, and thus the voice of the people at large may be heard. If this view is correct, it will be seen that the existing plan of proposing amendments to the Constitution is one that brings proposed changes *nearer* to the people themselves than the one suggested by the minority of your committee.

The Senate is not in fact chosen on the basis of population, as is usually claimed. Each county has one senator at least,—no matter whether it have one town or twenty—one thousand voters or two hundred,—so that in the first instance the idea of *municipality* is recognized in the composition of the Senate. As at present constituted, we have fourteen senators, (a fraction less than one-half,) who represent fourteen counties. The other sixteen senators represent the people of the larger counties. The House of Representatives simply represents the several town corporations *as* corporations, without any regard to the number of people composing such corporations,

It is proposed by the minority of the committee to submit proposed changes in the organic law to these two tribunals thus constituted, upon the ground that it will bring them *nearer* to the people. It is submitted that the result aimed at is not brought about under this plan.

Again it is urged that the Council of Censors is a body unknown to sister states, and has arrived at that "respectable old age" in our own that entitles it to funeral honors. We are unable to see any force in this argument. The very *soul* of an organic law—of a constitution for a commonwealth, is *permanency*. The people demand some permanent law so that legislatures of partisan bias shall not trample upon the rights of minorities. Again, Vermont has very many institutions not enjoyed by sister states, and this fact furnishes no argument against them.

Nor is the plan recommended by the minority of your committee cheaper than the existing mode. We are of opinion if the Legislature once in ten years have power to reach the Constitution that a large portion of their time will be occupied in "tinkering" it. No member will think he can subserve the interests of his constituents unless he strikes some blow at the Constitution which his fancy may dictate, and thus, if no unwise changes are made, much time will be taken up, and great expense to the State incurred.

The other powers delegated by the people to the Council of Censors ought not to be surrendered. Through them the people hold a check over the different departments of the government. Executives *may* become usurpers, legislatures *may* become corrupt, and both become unfaithful "guardians" of the people. Public taxes may be unjustly "laid" and public moneys squandered, and impeachments may be demanded in cases where a corrupt Legislature would screen offenders.

The proposition to abolish the Council has been agitated several times before, but without success; and although in deference to the wishes of a portion of our people who call for this change we may be constrained to vote to submit the proposed amendment of the minority to a Convention, still in justice to ourselves we are bound to express our views against the wisdom of such a change.

Respectfully submitted.

H. HENRY POWERS, for majority of Committee.

On motion of Mr. RAND,

*Ordered*, that the report lie, and that the Secretary procure the printing of five hundred copies for the use of the Council.

Leave having been granted, and the hour having arrived, the Council again resolved itself into a Committee of the Whole further to consider the report of the Special Committee on Biennial Sessions and Elections, (at half past two o'clock).

And at half-past four o'clock, the Committee of the Whole having arisen, reported by their chairman, Mr. REED, recommending the adoption of section one of the article proposed in said report, and asked leave to sit again at ten o'clock to-morrow morning.

And this report was accepted, and leave granted.

Mr. POWERS moved to adopt section one of the article proposed in said report, and the question being, Shall said section be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,

CLEAVELAND,

DEWEY,

FRENCH,

HARMON,

HOLLISTER,

POWERS.

RAND—8

Those members who voted in the negative are Messrs.

FIELD,

LANE,

REDFIELD,

REED—4.

On motion of Mr. POWERS, the remaining sections of said article, being sections two, three, four, five and six, were adopted.

On motion of Mr. FRENCH, adjourned.

WEDNESDAY, AUGUST 4, 1869.

Prayer by Rev. J. EDWARD WRIGHT.

Journal of Tuesday read and approved.

Mr. RAND moved to reconsider the votes whereby sections one, two, three, four, five and six of the article of amendment proposed in the report of the Special Committee on Biennial Sessions and Elections, as amended, were adopted, and the question being, Shall said votes be reconsidered? it was, on motion of Mr. RAND,

*Ordered to lie.*

By leave of the Council, Mr. CLEVELAND recorded his vote in the affirmative on the adoption of section one of the article of amendment proposed in the report of the Special Committee on Biennial Sessions and Elections.

Mr. REED introduced the following proposed amendment to the Constitution, which was adopted :

ARTICLE —

The judges of the Supreme Court shall be elected biennially, and their term of office shall be two years.

Mr. DEWEY from the Special Committee on the Judiciary submitted the following proposed amendment to the Constitution :

ARTICLE —

SEC. 1. The judges of the Supreme Court shall be appointed by the Governor, by and with the advice and consent of the Senate.

SEC. 2. The term of office of the judges of the Supreme Court shall be six years ; provided, that under the first appointment made in pursuance of this section, one-third of the whole number of judges shall hold their office for the period of six years, one-third for the period of four years, and one-third for the period of two years.



SEC. 3. Whenever the number of the judges of the Supreme Court shall exceed six, the Legislature shall fix the time when the term of office of the judges in excess of that number shall commence.

On motion of Mr. COLBURN this article was recommitted with instructions to amend.

Mr. CLEAVELAND called up the report of the minority of the Special Committee on changing the mode of amending the Constitution, and moved to substitute for the articles of amendment proposed therein the following :

#### ARTICLE —

SEC. 1. At the annual session of the General Assembly of this State, in the year of our Lord one thousand eight hundred and seventy-eight, and at the annual session thereof in every eighth year thereafter, the Senate may propose any specific and particular amendments to the Constitution of this State that may be necessary for the preservation of the rights and happiness of the people ; and the same being agreed to by two-thirds of the members of the Senate and of the House of Representatives, respectively, such proposed amendment or amendments shall be entered on the journals of the two Houses, and referred to the General Assembly then next to be chosen, and shall be published in the principal newspapers in this State ; and if at the General Assembly next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of the members of the Senate and of the House of Representatives respectively, then it shall be the duty of the General Assembly to submit such amendments to a direct vote of the freemen of this State at their Freemen's Meeting next to be holden for the choice of State and county officers ; and if said amendments, or any of them, shall be approved and ratified by a majority of the qualified voters then voting thereon, they shall become part of the Constitution of this State.

\* SEC. 2. The General Assembly shall direct the manner of voting by the people upon the proposed amendments, and enact all such laws as shall be necessary to procure a free and fair vote upon each amendment proposed, and to carry into effect all the provisions of the preceding section.

SEC. 3. The House of Representatives shall have all the powers now possessed by the Council of Censors, to order impeachments, which shall in all cases be by a vote of two-thirds of its members.

SEC. 4. The forty-third section of the second part of the Constitution of this State, is hereby abrogated.

Mr. REED proposed to amend the proposed substitute in the third line, by striking out the words "seventy-eight," and inserting in lieu thereof the word *eighty*, and by striking out the word "eighth," and inserting in lieu thereof the word *tenth*, and the question being, Shall this amendment be adopted? the yeas and nays were demanded by Mr. REED.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,  
FIELD,  
FRENCH,  
HARMON,

HOLLISTER,  
LANE,  
POWERS,

RAND,  
REDFIELD,  
REED—10.

Those members who voted in the negative are Messrs.

CLEAVELAND,                      ROSS—2.

So the proposed substitute was amended.

On motion of Mr. CLEAVELAND, the proposed substitute was amended by striking out the word "annual," in the first and third lines of section one :

The question recurring, Shall the proposed substitute be adopted? the yeas and nays were demanded by Mr. COLBURN.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,  
CLEAVELAND,  
FIELD,  
FRENCH,

HARMON,  
HOLLISTER,  
LANE,  
POWERS,

RAND,  
REDFIELD,  
REED,  
ROSS—12.

And no member voting in the negative, the proposed substitute as amended was adopted, and on motion of Mr. POWERS,

*Ordered* that the report and proposed article, as amended, lie, and that the Secretary procure the printing of one hundred copies of the amended article for the use of the Council.

On motion of Mr. ROSS the resolution relating to the expediency of calling a convention was taken up, and made the special order for two o'clock this afternoon.

On motion of Mr. LANE, adjourned.

### AFTERNOON.

The resolution of Mr. POWERS relating to the expediency of calling a convention was taken up, being the special order.

Mr. COLBURN moved to amend by striking out the words, "second Wednesday," and inserting in lieu thereof the words, *first Tuesday*;

Which was disagreed to.

On motion of Mr. RAND,

*Ordered* that the resolution lie.

The report of the Special Committee on Woman Suffrage was taken up, being the special order, and while the same was under consideration, and pending the question, Shall the proposed article of amendment relating to Woman Suffrage be adopted?

On motion of Mr. HARMON, adjourned.

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### THURSDAY, AUGUST 5, 1869.

Prayer by Rev. J. EDWARD WRIGHT.

Journal of Wednesday read and approved.

Mr. HARMON from the Legislative Committee submitted the following report, which was read, accepted and ordered to lie :

*To the Council of Censors :*

The Legislative Committee to whom was referred the resolution instructing them to inquire whether the laws of the State, regulating

the rate of interest have been disregarded and violated, etc., and that said committee report the causes of such violation, and whether it be within the province of this Council to provide a remedy, report :

That we have considered the matter submitted to us by said resolution, and state that the laws of the State regulating the rate of interest have been very generally disregarded. The cause of such violation is the proclivity of the citizens of this State, "moved and instigated by the love of money," to evade the law to gain important ends. But we think that a matter so variable as the use of money should be under the control of the Legislature, whose flexible legislation can be better adapted to the varied value of money and the various exigencies and wants of the people, than a stiff and inflexible provision of organic law ; and we, therefore, think that it is not within the legitimate province of the Council of Censors to provide a remedy.

TIMOTHY P. REDFIELD, for Committee.

The report of the Special Committee on Woman Suffrage was again taken up, and the question being, Shall the proposed article of amendment be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

CLEAVELAND,  
HOLLISTER,

POWERS,  
RAND,

REED,  
ROSS—6.

Those members who voted in the negative are Messrs.

COLBURN,  
FIELD,

FRENCH,  
HARMON,

LANE—5.

So the proposed article of amendment was adopted.

Mr. POWERS moved that this vote be reconsidered, and the question being, Shall the vote be reconsidered? it was, on motion of Mr. POWERS,

*Ordered to lie.*

On motion of Mr. CLEAVELAND the minority report of the Special Committee on changing the mode of amending the Constitution was taken up.

Mr. ROSS moved to amend section one of the proposed article of amendment by substituting the following :

SEC 1. At the session of the General Assembly of this State, A. D. 1880, and at the session thereof, every tenth year thereafter, the Senate may, by a vote of two-thirds of its members, make proposals of amendment to the Constitution of the State, which proposals of amendment, if concurred in by a majority of the members of the House of Representatives, shall be entered on the journals of the two Houses and referred to the General Assembly then next to be chosen, and be published in the principal newspapers of the State; and if a majority of the members of the Senate and of the House of Representatives of the next following General Assembly shall, respectively, concur in the same proposals of amendment or any of them, it shall be the duty of the General Assembly to submit such proposals of amendment to a direct vote of the freemen of the State; and such of said proposals of amendment as shall receive a majority of the freemen voting thereon, shall become a part of the Constitution of this State.

On motion of Mr. Ross,

*Ordered* that the report and proposed amendment lie.

Mr. POWERS called up the motion to reconsider the vote whereby the proposed article of amendment relating to Woman Suffrage was adopted.

And the question being, Shall the vote be reconsidered? it was decided in the affirmative.

And the question recurring, Shall the proposed article of amendment be adopted? the yeas and nays were demanded by Mr. POWERS.

The vote being taken, those members who voted in the affirmative are Messrs.

CLEAVELAND,  
HOLLISTER,

POWERS,  
RAND,

REED,  
ROSS—6.

Those members who voted in the negative are Messrs.

COLBURN,  
DEWEY,

FIELD,  
FRENCH,

HARMON,  
LANE—6.

The vote being a tie, it was decided in the affirmative by the casting vote of the President.

Mr. DEWEY from the Committee on the Judiciary submitted the following report, which was read and accepted :

*To the Council of Censors :*

The Special Committee on the Judiciary, to whom was recommit-  
ted the proposed article of amendment in relation to the appointment  
of the judges of the Supreme Court, with leave to amend the same,  
report the same back to the Council, amended in certain respects, as  
follows :

ARTICLE —

SEC. 1. The judges of the Supreme Court, and the presiding  
judges of the county courts, shall be appointed by the Governor,  
by and with the advice and consent of the Senate.

SEC. 2. The term of office of the judges of the Supreme Court  
and the presiding judges of the county courts shall be six years ;  
provided, that under the first appointment made in pursuance of this  
section the two judges first appointed shall hold their offices for the  
period of six years ; the two next in the order of appointment shall  
hold their offices for the period of four years ; and the two next in  
the order of appointment shall hold their offices for two years.

SEC. 3. Whenever the number of the judges of the Supreme  
Court shall exceed six, the Legislature shall fix the time when the  
term of office of the judges in excess of that number shall commence.

SEC. 4. The judges of the Supreme Court, and the presiding  
judges of the county courts, shall at stated times receive a reason-  
able compensation for their services, which shall not be diminished  
during the term of their offices.

CHARLES C. DEWEY, for the Committee.

On motion of Mr. LANE,

*Ordered* that the report lie, and that the Secretary procure  
the printing of one hundred copies for the use of the  
Council.

The report of the Special Committee on changing the  
mode of amending the Constitution, was again taken up,  
and the question being, Shall the amendment proposed by  
Mr. ROSS as a substitute for section one of the article of  
amendment proposed in said report be adopted? it was de-  
cided in the affirmative.

And the question being, Shall the article as amended be adopted? the yeas and nays were demanded by Mr. POWERS.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,  
CLEAVELAND,

FRENCH,

HARMON—4.

Those members who voted in the negative are Messrs.

DEWEY,

LANE,

REED,

FIELD,

POWERS,

ROSS—8.

HOLLISTER,

RAND,

So the article was rejected.

Mr. RAND moved to reconsider this vote, and the question being, Shall this vote be reconsidered? it was, on motion of Mr. RAND,

*Ordered to lie.*

The report of the Special Committee on the Judiciary was taken up, and on motion of Mr. DEWEY, it was

*Ordered to lie*, and made the special order for two o'clock this afternoon.

On motion of Mr. REED,

*Ordered* that the Secretary procure the printing of one hundred copies of the article of amendment proposed in the minority report of the Special Committee on changing the mode of amending the Constitution, as finally amended for the use of the Council.

Mr. DEWEY introduced the following resolution, which was read and adopted:

*Resolved*, That a Convention being called, the President be instructed to appoint a committee, consisting of three members, to prepare an address to the people, and also a committee, consisting of three members, to draft an ordinance.

On motion of Mr. ROSS, adjourned.

## AFTERNOON.

The report of the Special Committee on the Judiciary was taken up, being the special order, and the question being, Shall the amendment proposed by the committee be adopted? it was decided in the affirmative.

The question recurring, Shall the article as amended be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,	FRENCH,	POWERS,
CLEAVELAND,	HARMON,	RAND,
DEWEY,	HOLLISTER,	REED,
FIELD,	LANE,	ROSS—12.

And no member voting in the negative, the article as amended was adopted.

Mr. RAND introduced the following resolution, which was read and adopted :

*Resolved*, That when this Council shall adjourn to-morrow, it adjourn to meet at the Capitol in Montpelier, on Tuesday, the 19th day of October next, at ten o'clock in the forenoon.

The President announced that, under the resolution of Mr. DEWEY so instructing him, he had appointed as Committee to prepare an Address to the People,

Mr. DEWEY,  
Mr. ROSS,  
Mr. COLBURN.

Committee to Draft an Ordinance,

Mr. REED,  
Mr. RAND,  
Mr. HOLLISTER.

Mr. DEWEY from the Committee on the Powers of the Constitution submitted the following report, which was read, accepted and ordered to lie :



*To the Council of Censors now in session :*

The Committee on the Powers of the Constitution, to whom was referred a resolution instructing them to make inquiry whether section seven of part second of the Constitution has been violated by any member of the Legislature during the last septenary, and that said committee have leave to sit at any time during the term of office of this Council, and have power to send for persons, papers and records, respectfully submit the following report :

That the attention of the committee has not been called to any instance, during the last septenary, of the violation, by any member of either branch of the Legislature, of said section ; nor have your committee any knowledge of such violation. And for this reason your committee ask to be discharged, until instructed otherwise by the Council, from the further consideration of the resolution.

CHARLES C. DEWEY,	} Committee.
JASPER RAND,	
JOHN R. CLEVELAND,	

Mr. DEWEY from the Committee on the Powers of the Constitution submitted the following report, which was read, accepted and ordered to lie :

*To the Council of Censors now in session :*

The Committee on the Powers of the Constitution, to whom was referred a resolution instructing them to inquire whether the legislative department of the government, in enacting certain statutes enabling towns to grant aid to railroad corporations, has assumed to itself and exercised greater power than it is entitled to by the Constitution, have had the same under consideration and ask leave to report :

That in their opinion the said statutes cannot be said to be so clearly in violation of the Constitution as to warrant your committee in finding that they fall without its pale. In the opinion of your committee, it was not the intention of the framers of the Constitution that this body should censure the action of the Legislature, unless in case where it is clear to the apprehension of the body that they have overleaped the boundaries of the Constitution. There being conflict in the decisions of the courts upon this subject, your committee are of the opinion that this is a question which may be more appropriately settled in the Supreme

Court than by any action which could be recommended by this body. If permissible within the spirit of the authority conferred upon this Council, your committee would suggest that it would perhaps be a proper subject for consideration whether it would not be expedient, in any future legislation upon the subject that two-thirds of the tax-payers and two-thirds of the grand list, both in number of tax-payers and amount of grand list, should be required to enable the towns to aid such corporations. And also whether future legislation of this kind shall not be general instead of partial, as it has heretofore been.

CHARLES C. DEWEY,  
JASPER RAND,  
JOHN R. CLEAVELAND, } Committee.

Mr. DEWEY from the Committee on the Powers of the Constitution submitted the following report, which was read, accepted and ordered to lie :

*To the Council of Censors now in session :*

The Committee on the Powers of the Constitution ask leave to report :

That upon consideration of the subjects submitted to them, they have no knowledge of any clear violation of the provisions of the Constitution during the last septenary. They would refer to special reports submitted by them, and ask leave to be discharged.

CHARLES C. DEWEY,  
JASPER RAND,  
JOHN R. CLEAVELAND, } Committee.

Mr. CLEAVELAND moved to reconsider the vote whereby the article of amendment proposed by the Special Committee on the Judiciary was adopted, and the question being, Shall the vote be reconsidered? it was, on motion of Mr. CLEAVELAND,

*Ordered to lie.*

The motion to reconsider the vote rejecting the article of amendment relating to the mode of amending the Constitution, was taken up, and the question being, Shall the vote be reconsidered? it was decided in the affirmative.

And the question recurring, Shall the proposed article of amendment be adopted? it was decided in the affirmative.

Mr. REED moved that this vote be reconsidered, and the question being, Shall the vote be reconsidered? it was, on motion of Mr. REED,

*Ordered to lie.*

Mr. ROSS moved that the vote whereby the proposed article of amendment relating to Woman Suffrage was adopted, be reconsidered, and the question being, Shall the vote be reconsidered? it was, on motion of Mr. ROSS,

*Ordered to lie.*

The resolution of Mr. Powers, relating to the expediency of calling a Convention, was taken up, and on motion of Mr. RAND, unanimously adopted.

Mr. ROSS moved to reconsider this vote, and the question being, Shall the vote be reconsidered? it was, on motion of Mr. ROSS,

*Ordered to lie.*

By unanimous consent, Mr. ROSS moved to reconsider the vote whereby the proposed article of amendment relating to Corporations was adopted, and the question being, Shall the vote be reconsidered? it was, on motion of Mr. ROSS,

*Ordered to lie.*

On motion of Mr. CLEVELAND,

*Ordered* that the Secretary procure the printing of one hundred copies of all proposed articles of amendment pending in this Council, and transmit five copies thereof to each member.

On motion of Mr. ROSS, adjourned.

FRIDAY, AUGUST 6, 1869.

Prayer by Rev. J. EDWARD WRIGHT.

Journal of Thursday read, corrected and approved.

On motion of Mr. REED, the Council adjourned to meet at the Capitol in Montpelier, on Tuesday, the 19th day of October next, at ten o'clock in the forenoon.

## THIRD SESSION.

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TUESDAY, OCTOBER 19, 1869.

Prayer by Rev. WILLIAM FITZ.

Mr. REED from the Committee appointed to Draft an Ordinance, reported the following, which was read, accepted and ordered to lie :

### ORDINANCE OF COUNCIL.

STATE OF VERMONT. }  
IN COUNCIL OF CENSORS, October, A. D. 1869. }

The Council having determined to propose certain amendments to the Constitution of the State, and to call a Convention to consider such amendments ; therefore,

IT IS ORDERED by said Council that a Convention of the people of the State of Vermont shall meet at the State House, in Montpelier, on the second Wednesday of June, A. D. 1870, at ten o'clock in the forenoon, to consider the said proposed amendments and adopt the same or such parts thereof as the said Convention shall deem necessary to preserve the peace and happiness of the people of this State.

And for the purpose of electing delegates to attend said Convention, the first constable of each organized town in this State, or in his absence the town clerk, or in the absence of both, one of the selectmen of each town, without further order, shall set up a notification in writing, at such place or places as shall have been designated by such town for notifying town meetings, at least twelve days before the second Tuesday of May, A. D. 1870, warning the freemen of said town to meet on the said second Tuesday of May, A. D. 1870, at ten o'clock in the forenoon, at the place where the last Freemen's Meeting was held in such town, for the purpose of electing a delegate to represent the freemen of such town in said Con-

vention; and at the opening of such meeting this order shall be publicly read.

And the first constable, or in his absence one of the selectmen of such town, shall preside at said meeting, and shall call on the freemen of said town for the space of four hours to give in their votes for such delegate; which votes shall be given and received in the manner and under the same regulations as are by law provided for electing representatives to the General Assembly. And at the expiration of said time the votes so taken shall be sorted and counted by the presiding officer and such of the selectmen and justices of the peace of such town as shall be present. And if no person shall have a majority of all the votes given, the presiding officer shall so inform the freemen and call on them as aforesaid, giving a reasonable time only for receiving their votes, and so continue from time to time to receive and count the votes until an election of a delegate shall be made.

And when an election shall be made as aforesaid, it shall be the duty of the presiding officer of the meeting to declare the same, and to deliver to the person elected a certificate of the following tenor, to wit:

STATE OF VERMONT, } At a Freemen's Meeting, warned  
                                   COUNTRY, ss. } and holden at                                   , in  
 pursuance of an ordinance of the Council of Censors, on the second  
 Tuesday of May, A. D. 1870,                                   was elected a  
 delegate by a majority of the freemen present to represent the peo-  
 ple of the town of                                   in a State Convention, to be  
 held at Montpelier, on the second Wednesday of June, A. D. 1870,  
 to consider certain amendments to the Constitution of this State,  
 proposed by the said Council of Censors in October last.

Given under my hand at                                   , this           day of May,  
 A. D. 1870.

} First Constable  
 } (or Selectman) and  
 } Presiding Officer.

And the said certificate shall be a sufficient credential of the election of such person.

*Done in Council at Montpelier, the day and year above written.*

President.

Secretary.

On motion of Mr. POWERS, adjourned.

## AFTERNOON.

No quorum being present,

On motion of Mr. RAND, adjourned.

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WEDNESDAY, OCTOBER 20, 1869.

Prayer by Rev. WILLIAM FITZ.

Journal of Tuesday read and approved.

The proposed article of amendment relating to Corporations was taken up, and the question being, Shall the vote adopting the same be reconsidered? it was decided in the affirmative.

And the question recurring, Shall said article be adopted? it was, on motion of Mr. ROSS,

*Ordered to lie.*

The proposed article of amendment relating to Biennial Sessions and Elections was taken up, and the question being, Shall the vote adopting the same be reconsidered? the yeas and nays were demanded by Mr. DEWEY.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,

FIELD,

LANE—3.

Those members who voted in the negative are Messrs.

CLEAVELAND,

HOLLISTER,

REDFIELD,

DEWEY,

POWERS,

REED,

FRENCH,

RAND,

ROSS—10.

HARMON,

So the motion to reconsider was lost.

The proposed article relating to Woman Suffrage was taken up, and the question being, Shall the vote adopting the same be reconsidered? it was decided in the affirmative.

And the question recurring, Shall said article be adopted? the yeas and nays were demanded by Mr. RAND.

The vote being taken, those members who voted in the affirmative are Messrs.

COLBURN,  
CLEAVELAND,  
FRENCH,

HOLLISTER,  
POWERS,  
RAND,

REDFIELD,  
REED,  
ROSS—9.

Those members who voted in the negative are Messrs.

DEWEY,  
FIELD

HARMON,

LANE—4.

So the proposed article was adopted.

The proposed article of amendment relating to the Judiciary was taken up, and the question being, Shall the vote adopting the same be reconsidered? it was decided in the affirmative.

The question then being upon the adoption of this article, by unanimous consent, Mr. CLEAVELAND moved to recommit the proposed article to the Special Committee on the Judiciary ;

Which was agreed to.

The proposed article of amendment relating to the mode of amending the Constitution was taken up, and the question being, Shall the vote adopting the same be reconsidered? it was decided in the negative.

Mr. POWERS called up the proposed article relating to Corporations, and moved to commit to a member with instructions to amend the same so as to read as follows, viz :

*Corporations shall not be created, nor their powers increased or diminished by spcial laws, except for municipal purposes ;*

Which was agreed to.

And the President designated Mr. POWERS as the member to whom said article should be committed to amend.



Mr. POWERS reported that he had amended said article as instructed by the Council ; which report was accepted.

And thereupon the amendment proposed by Mr. POWERS was adopted.

Pending the question, Shall the proposed article as amended be adopted ?

On motion of Mr. POWERS, adjourned.

## AFTERNOON.

The proposed article relating to Corporations was taken up, and the question being, Shall said article as amended be adopted ? it was decided in the affirmative.

Mr. DEWEY from the Special Committee on the Judiciary submitted the following report, which was read and accepted :

*To the Council of Censors :*

The Committee on the Judiciary, to whom was recommitted the proposed article relating to the Judiciary, ask leave to report :

That they have considered the same and have amended the second section of said article as follows : Strike out all after the word " provided," and insert the following : *that under the first appointment made in pursuance of this section, one-third of the judges first appointed shall hold their offices for the period of six years ; one-third thereof, second in the order of appointment, shall hold their offices for the period of four years ; and one-third thereof, last in the order of appointment, shall hold their offices for the period of two years.* Strike out section three.

And the amendment proposed by said committee was adopted.

Mr. DEWEY moved to commit said article to a member with instructions to amend the same by striking out from sections one, two and four of said article, the words, " and the presiding judges of the county courts ;"

Which was agreed to.

And the President designated Mr. REED as the member to whom said article should be committed to amend.

Mr. REED reported, that he had complied with the instructions of the Council, and submitted said article amended according to instructions.

And the report of the committee was accepted, and the proposed amendment was adopted.

And the question being, Shall the article as amended be adopted? it was decided in the affirmative.

The resolution of Mr. POWERS relating to the expediency of calling a Convention was taken up, and the question being, Shall the vote unanimously adopting the same be reconsidered? the yeas and nays were demanded by Mr. DEWEY.

The vote being taken, those members who voted in the affirmative are Messrs.

LANE,

REDFIELD—2.

Those members who voted in the negative are Messrs.

COLBURN,

FRENCH,

RAND,

CLEAVELAND,

HARMON,

REED,

DEWEY,

HOLLISTER,

ROSS—11.

FIELD,

POWERS,

So this motion to reconsider was lost.

Mr. REED introduced the following resolution which was read and adopted :

*Resolved*, That the Committee on Revision and Engrossment be instructed to report to the Council an engrossed copy of the articles of amendment to the Constitution of the State of Vermont, proposed by the Council of Censors; and of the articles of the Constitution proposed to be added to, abolished, or altered thereby; and of the ordinance adopted by the Council, in a form to be signed by the President and Secretary, and officially promulgated.

On motion of Mr. DEWEY, adjourned.

THURSDAY, OCTOBER 21, 1869.

Prayer by REV. WILLIAM FITZ.

Journal of Wednesday read and approved.

MR. DEWEY from the Committee appointed to prepare an Address to the People submitted an address, which was read, accepted, amended, and on motion of MR. CLEAVELAND, referred to the Committee on Revision and Engrossment.

MR. POWERS from the Committee on Revision and Engrossment reported that said committee had complied with a resolution of the Council so instructing them, and submitted an engrossed copy of the articles of amendment to the Constitution proposed by the Council, the articles of the present Constitution affected by said proposed amendments, and the ordinance referred to said committee ;

Which report was accepted, amended, and on motion of MR. CLEAVELAND, recommitted.

MR. CLEAVELAND moved that when the Council adjourn, it adjourn to meet this afternoon at four o'clock ;

Which was agreed to.

On motion of MR. ROSS, adjourned.

### AFTERNOON.

MR. REED from the Committee on Revision and Engrossment submitted the following report, which was read and accepted :

*To the Council of Censors now in session :*

The Committee on Revision and Engrossment, to whom was recommended a former report of this committee, containing an engrossed copy of the articles of amendment to the Constitution, the articles of

the present Constitution affected by said proposed amendments, and the ordinance referred to said committee, submit the following :

*Articles of Amendment to the Constitution of the State of Vermont, proposed by the Council of Censors on the 22d day of October, A. D. 1869.*

ARTICLE 1.

Corporations shall not be created, nor their powers increased or diminished by special laws, except for municipal purposes.

ARTICLE 2.

SEC. 1. The General Assembly shall meet on the first Wednesday of October, biennially ; the first election shall be on the first Tuesday of September, A. D. 1870 ; the first session of the General Assembly on the first Wednesday of October, A. D. 1870.

SEC. 2. The Governor, Lieutenant Governor, Treasurer of the State, senators, town representatives, assistant judges of the county court, sheriffs, high bailiffs, State's attorneys, judges of probate and justices of the peace, shall be elected biennially, on the first Tuesday of September, in the manner prescribed by the Constitution of the State.

SEC. 3. The term of office of the Governor, Lieutenant Governor and Treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of two years, or until their successors shall be chosen and qualified, or to the adjournment of the session of the Legislature at which, by the Constitution and laws, their successors are required to be chosen, and not after such adjournment.

SEC. 4. The term of office of senators and town representatives shall be two years, commencing on the first Wednesday of October following their election.

SEC. 5. The term of office of the assistant judges of the county court, sheriffs, high bailiffs, State's attorneys, judges of probate and justices of the peace, shall be two years, and shall commence on the first day of December next after their election.

ARTICLE 3.

Whenever the office of senator or town representatives shall become vacant from any cause, the Legislature may provide by law for filling such vacancy.

## ARTICLE 4.

SEC. 1. The judges of the Supreme Court shall be appointed by the Governor, by and with the advice and consent of the Senate.

SEC. 2. The term of office of the judges of the Supreme Court shall be six years ; provided, that under the first appointment made in pursuance of this section, one-third of the judges first appointed shall hold their offices for the period of six years ; one-third thereof, second in the order of appointment, shall hold their offices for the period of four years ; and one-third thereof, last in the order of appointment, shall hold their offices for the period of two years.

SEC. 3. The judges of the Supreme Court shall at stated times receive a reasonable compensation for their services, which shall not be diminished during the terms of their offices.

## ARTICLE —

*Proposed for adoption if article two is adopted and article four is rejected.*

The judges of the Supreme Court shall be elected biennially, and their term of office shall be two years.

## ARTICLE 5.

Hereafter women shall be entitled to vote, and with no other restrictions than the law shall impose on men.

## ARTICLE 6.

SEC. 1. At the session of the General Assembly of this State, A. D. 1880, and at the session thereof, every tenth year thereafter, the Senate may, by a vote of two-thirds of its members, make proposals of amendment to the Constitution of the State, which proposals of amendment, if concurred in by a majority of the members of the House of Representatives, shall be entered on the journals of the two Houses, and referred to the General Assembly then next to be chosen, and be published in the principal newspapers of the State ; and if a majority of the members of the Senate and of the House of Representatives of the next following General Assembly shall respectively concur in the same proposals of amendment, or any of them, it shall be the duty of the General Assembly to submit the proposals of amendment so concurred in to a direct vote of the free-men of the State ; and such of said proposals of amendment as shall

receive a majority of the votes of the freemen voting thereon shall become a part of the Constitution of this State.

SEC. 2. The General Assembly shall direct the manner of voting by the people upon the proposed amendments, and enact all such laws as shall be necessary to procure a free and fair vote upon each amendment proposed, and to carry into effect all the provisions of the preceding section.

SEC. 3. The House of Representatives shall have all the powers now possessed by the Council of Censors to order impeachments, which shall in all cases be by a vote of two-thirds of its members.

SEC. 4. The forty-third section of the second part of the Constitution of this State is hereby abrogated.

*Articles of the present Constitution affected by the above proposed amendments.*

PART 2.

SEC. 8. The House of Representatives of the freemen of this State shall consist of persons most noted for wisdom and virtue, to be chosen by ballot by the freemen of every town in this State, respectively, on the first Tuesday of September, annually, forever.

SEC. 9. The representatives so chosen, (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two-thirds of the members elected shall be present,) shall meet on the second Thursday of the succeeding October, [and shall be styled, The General Assembly of the State of Vermont :] (*see the second article of amendment*). They shall have power to choose their Speaker, [Secretary of State,] (*see the tenth article of amendment*), their Clerk and other necessary officers of the House ; sit on their own adjournments ; prepare bills and enact them into laws ; judge of the elections and qualifications of their own members ; they may expel members, but not for causes known to their constituents antecedent to their election ; they may administer oaths and affirmations in matters depending before them ; redress grievances ; impeach State criminals ; grant charters of incorporation ; constitute towns, boroughs, cities and counties ; they may, annually, on their first session after their election, [in conjunction with the Council] (or oftener if need be) elect judges of the Supreme [and several county and probate] courts, [sheriffs and justices of the peace,]

(*see articles of amendment from the fourteenth to the twentieth, both inclusive,*) and also [with the Council] may elect major generals and brigadier generals, from time to time as often as there shall be occasion; and they shall have all other powers necessary for the Legislature of a free and sovereign State. But they shall have no power to add to, alter, abolish, or infringe any part of this Constitution. (*See the articles of amendment which require the concurrent action of a Senate for the effectual exercise of most of the above mentioned powers.*)

SEC. 21. Every man of the full age of twenty-one years, having resided in this State for the space of one whole year next before the election of representatives, and is of a quiet and peaceable behavior, and will take the following oath or affirmation. shall be entitled to all the privileges of a freeman of this State.

*" You solemnly swear (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any man. (See the first article of amendment.)*

SEC. 43. In order that the freedom of this commonwealth may be preserved inviolate forever, there shall be chosen by a ballot, by the freemen of this State, on the last Wednesday in March, in the year one thousand seven hundred and ninety-nine, and on the last Wednesday in March in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the Council is chosen except they shall not be out of the Council or General Assembly, to be called the *Council of Censors*, who shall meet together on the first Wednesday of June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree; and whose duty it shall be to inquire whether the Constitution has been preserved inviolate in every part during the last septenary, (including the year of their service,) and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the Constitution. They are also to inquire whether the public taxes have been justly laid

and collected in all parts of this commonwealth; in what manner the public moneys have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the Legislature the repealing such laws as shall appear to them to have been passed contrary to the principles of the Constitution; these powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said Council of Censors shall also have power to call a convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this Constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary, for the preservation of the rights and happiness of the people. But the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

#### ARTICLES OF AMENDMENT.

ART. IV. [The Senate shall be composed of thirty senators, to be of the freemen of the county for which they are elected, respectively, who are thirty years of age or upwards, and to be annually elected by the freemen of each county respectively. Each county shall be entitled to one senator, at least, and the remainder of the senators shall be apportioned to the several counties according to their population, as the same was ascertained by the last census, taken under the authority of the United States—regard being always had, in such apportionment, to the counties having the greatest fraction. But the several counties shall, until after the next census of the United States, be entitled to elect, and have their senators, in the following proportion, to wit:—

Bennington county, two; Windham county, three; Rutland county, three; Windsor county, four; Addison county, three; Orange county, three; Washington county, two; Chittenden county, two; Caledonia county, two; Franklin county, three; Orleans county, one; Essex county, one; Grand Isle county, one.



The Legislature shall make a new apportionment of the senators, to the several counties, after the taking of each census of the United States, or census taken for the purpose of such apportionment, by order of the government of this State, always regarding the above provisions in this article.] (*See the twenty-third article of amendment.*)

ART. V. The freemen of the several towns in each county, shall annually give their votes for the senators, apportioned to such county, at the same time and under the same regulations as are now provided for the election of councillors.\* And the person or persons, equal in number to the number of senators apportioned to such county, having the greatest number of legal votes in such county respectively, shall be the senator or senators of such county. At every election of senators, after the votes shall have been taken, the constable or presiding officer, assisted by the selectmen and civil authority present, shall sort and count the said votes, and make two lists of the names of each person, with the number of votes given for each annexed to his name, a record of which shall be made in the town clerk's office, and shall seal up said lists, separately, and write on each the name of the town, and these words, "Votes for Senator," or "Votes for Senators," as the case may be, one of which lists shall be delivered by the presiding officer to the representative of said town, (if any) and if none be chosen, to the representative of an adjoining town, to be transmitted to the President of the Senate; the other list, the said presiding officer shall, within ten days, deliver to the clerk of the county court, for the same county, and the clerk of each county court, respectively, or in case of his absence or disability, the sheriff of such county, or in case of the absence or disability of both, the high bailiff of such county, on the tenth day after such election, shall publicly open, sort and count said votes, and make a record of the same, in the office of the clerk of such county court, a copy of which he shall transmit to the senate; and shall also, within ten days thereafter, transmit to the person or persons elected, a certificate of his or their election. Provided, however, that the General Assembly shall have power to regulate by law the mode of balloting for senators, within the several counties, and to prescribe the means, and the manner by which the result of the balloting shall be ascertained, and through which the senators

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\*Section 10 of Part II.

chosen, shall be certified of their election, and for filling all vacancies in the senate, which shall happen by death, resignation or otherwise. But they shall not have power to apportion the senators to the several counties, otherwise than according to the population thereof, agreeably to the provisions hereinbefore ordained.

ART. X. The Secretary of State, and all officers whose elections are not otherwise provided for, and who, under the existing provisions of the Constitution, are elected by the Council and House of Representatives, shall hereafter be elected by the Senate and House of Representatives, in joint assembly, at which the presiding officer of the Senate shall preside; and such presiding officer, in such joint assembly, shall have a casting vote, and no other.

ART. XIX. All the officers named in the preceding articles of amendment (*articles XIV to XVIII*) shall be annually elected by ballot, and shall hold their offices for one year, said year commencing on the first day of December next after their election.

ART. 21. The term of office of the Governor, Lieutenant-Governor, and Treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of one year, or until their successors shall be chosen and qualified, or to the adjournment of the session of the Legislature, at which, by the Constitution and laws, their successors are required to be chosen, and not after such adjournment.—And the Legislature shall provide, by general law, declaring what officer shall act as Governor whenever there shall be a vacancy in both the offices of Governor and Lieutenant-Governor, occasioned by a failure to elect, or by the removal from office, or by the death, resignation, or inability of both Governor and Lieutenant-Governor, to exercise the powers and discharge the duties of the office of Governor; and such officer, so designated, shall exercise the powers and discharge the duties appertaining to the office of Governor, accordingly, until the disability shall be removed, or a Governor shall be elected.—And in case there shall be a vacancy in the office of Treasurer, by reason of any of the causes enumerated, the Governor shall appoint a Treasurer for the time being, who shall act as Treasurer until the disability shall be removed, or a new election shall be made.

ART. 23. The Senate shall be composed of thirty senators, to be of the freemen of the county for which they are elected, respective-

ly, who shall have attained the age of thirty years, and they shall be elected annually by the freemen of each county respectively.

The senators shall be apportioned to the several counties, according to the population, as ascertained by the census taken under the authority of Congress in the year 1840, regard being always had, in such apportionment, to the counties having the largest fraction, and giving to each county at least one senator.

The Legislature shall make a new apportionment of the senators to the several counties, after the taking of each census of the United States or after a census taken for the purpose of such apportionment, under the authority of this State, always regarding the above provisions of this article.

STATE OF VERMONT, )  
IN COUNCIL OF CENSORS, )  
Montpelier, Oct. 22, A. D. 1869. }

We hereby certify that the above are Articles of Amendment to the Constitution of the State of Vermont proposed by said Council, and Articles of the present Constitution affected by said proposed amendments; and the same are hereby promulgated by order of said Council.

President

Secretary.

## ORDINANCE.

STATE OF VERMONT,  
IN COUNCIL OF CENSORS,  
Montpelier, October 22, A. D. 1869. }

The Council having determined to propose certain amendments to the Constitution of the State, and to call a *Convention* to consider such amendments; therefore,

IT IS ORDERED by said Council that a Convention of the people of the State of Vermont shall meet at the State House in Montpelier, on the second Wednesday of June, A. D. 1870, at ten o'clock in the forenoon, to consider the said proposed amendments and adopt the same, or such parts thereof as the said Convention shall deem necessary to preserve the peace and happiness of the people of this State. And for the purpose of electing delegates to attend said Convention, the first constable of each organized town in this State, or in his absence, the town clerk, or in the absence of both, one of the selectmen of each town, without further order, shall set up a notification in writing, at such place or places as shall have been designated by such town for notifying town meetings, at least twelve days before the second Tuesday of May, A. D. 1870, warning the freemen of such town to meet on the said second Tuesday of May, A. D. 1870, at ten o'clock in the forenoon, at the place where the last Freeman's Meeting was held in such town, for the purpose of electing a delegate to represent the freemen of such town in said Convention, and at the opening of such meeting this ordinance shall be publicly read.

And the same officer shall preside at said meeting as is required by law to preside at Freeman's Meeting, and shall call on the freemen of such town for the space of four hours to give in their votes for such delegate; which votes shall be given and received in the same manner and under the same regulations as are by law provided for electing representatives to the General Assembly. And at the expiration of said time, the votes so taken shall be sorted and counted by the presiding officer and such of the selectmen and justices of the peace of such town as shall be present; and if no person shall have a majority of all the votes given, the presiding officer shall so inform the freemen, and call on them as aforesaid, giving a reasonable time only for receiving their votes, and so continue from

time to time, to receive and count the votes until an election of a delegate shall be made.

And when an election shall be made, as aforesaid, it shall be the duty of the presiding officer of the meeting to declare the same, and to deliver to the person elected a certificate of the following tenor, to wit :

STATE OF VERMONT, }  
COUNTY, SS. } At a Freeman's Meeting warned  
and holden at in pursuance of an ordinance of the  
Council of Censors, on the second Tuesday of May, A. D. 1870,  
was elected a delegate by a majority of the freemen  
present, to represent the people of the town of in a  
State Convention to be held at Montpelier, on the second Wednesday  
of June, A. D. 1870, to consider certain amendments to the Consti-  
tution of this State proposed by the said Council of Censors in Oc-  
tober last.

Given under my hand at , this day of May,  
A. D. 1870.

} First Constable  
[or  
} and Presiding Officer.

And the said certificate shall be a sufficient credential of the elec-  
tion of such person.

*Done in Council at Montpelier, the day and year above written.*

President.

Secretary.

All which is respectfully submitted.

H. HENRY POWERS, }  
JONATHAN ROSS, } Committee.  
CHARLES REED, }

And the question being, Shall the proposed articles of  
amendment, the articles of the present Constitution affected  
thereby, and the ordinance, submitted by said committee for  
promulgation, be adopted? it was decided in the affirmative.

Mr. Ross from the Committee on Revision and Engross-  
ment submitted the following report, which was accepted :

*To the Council of Censors :*

The Committee on Revision and Engrossment, to whom was re-  
ferred a proposed address to the people, respectfully report :

That they have had the same under consideration, and recommend the adoption of the following :

### ADDRESS.

STATE OF VERMONT,  
IN COUNCIL OF CENSORS,  
Montpelier, October 22, 1869. }

*To the people of the State of Vermont :*

The Council of Censors elected by the freemen of the State, on the last Wednesday of March, A. D. 1869, have concluded their labors, and have called a Convention, to be holden on the second Wednesday of June, A. D. 1870, to act upon certain amendments to the Constitution which they have promulgated.

The Council are not unanimous upon the policy of adopting all the proposed amendments. They have submitted those propositions of amendment on which they believe the people desire to act.

The reasons for making the proposals of amendment have been substantially set forth in the reports of the several committees which have been so extensively published that it is not deemed necessary to repeat those reasons here. The integrity and intelligence of the people are a sufficient guaranty that none of these proposals of amendment will find a place in the Constitution, except "such as are necessary for the preservation of the rights and happiness of the people."

The Council have also performed the other duties imposed on them by the Constitution, and their action and recommendations will be found in the reports of their committees and in the published proceedings of the Council, to which the people are most respectfully referred.

J. ROSS, for the Committee

And the question being, Shall the address proposed by said committee be adopted? it was decided in the affirmative

Mr. REED from the Special Committee on Woman Suffrage, submitted the following report, which was read and accepted :

*To the Council of Censors :*

The Special Committee on Woman Suffrage who were instructed by a resolution adopted by this Council "to inquire into the justice and

expediency of so amending the Constitution as to require that every voter shall be able to write and read his or her vote intelligibly, no person to exercise this franchise without such qualification," respectfully report :

That they have had said resolution under consideration, and that such an amendment as is therein contemplated would, in their opinion, be inexpedient at the present time.

Said committee therefore ask to be discharged from the further consideration of the subject.

CHARLES REED, for Committee.

Mr. POWERS introduced the following resolution, which was read and adopted :

*Resolved*, That the thanks of this Council are due and are hereby tendered to the President, for the courteous and satisfactory manner in which he has discharged the duties of the chair during the three sessions of the Council.

Mr. ROSS introduced the following resolution, which was read and adopted :

*Resolved*, That the Secretary procure one thousand copies of the Journal of this Council to be printed, and that three hundred copies thereof be delivered to the Sergeant-at-Arms of this State to be distributed among the members and officers of the convention, when assembled, and that three hundred and fifty copies be delivered to the sheriffs of the several counties, to be by them distributed as follows: to the Governor ten copies; to the Lieutenant Governor five copies; to the Secretary of State ten copies; to the Clerk of the House of Representatives ten copies; to the Secretary of the Senate five copies; to the Secretary of Civil and Military Affairs five copies; to the late Governors and Lieutenant Governors, to the judges of the Supreme Court, and to the town clerk of each organized town in the State, one copy each: and the Secretary shall deliver to the Vermont Historical Society fifty copies; to each member of this Council ten copies. and the residue to the State Librarian for the use of the State.

Mr. REED introduced the following resolution, which was read and adopted :

*Resolved*, That the Secretary procure to be printed as soon as may be, seven hundred copies of the proposed amendments to the Constitution, the articles of the present Constitution to be affected thereby, the ordinance of the Council, and its address: that the Secretary be directed to mail one copy of the same to the town clerk of

each town in the State; and deliver one copy to each member of the General Assembly, and ten copies to the Governor of the State; five copies to each member of the Council, and the balance to the State Librarian for the use of the State.

Mr. CLEVELAND introduced the following resolution, which was read and adopted :

*Resolved*, That the thanks of the Council be tendered to the Secretary for the prompt and faithful manner in which he has discharged his arduous duties during the sessions of this Council.

Mr. REED introduced the following resolution which was read and adopted :

*Resolved*, That the Secretary be directed to transmit to his Excellency, the Governor of the State, a certified copy of the articles of amendment to the Constitution proposed by this Council, the articles of the present Constitution to be affected thereby, the ordinance of the Council, and its address, and signify to him the request of the Council that he lay the same before the Convention called by said ordinance, when assembled.

On motion of Mr. LANE, adjourned.

FRIDAY, OCTOBER 22, 1869.

Journal of Thursday read, corrected and approved.

On motion of Mr. REDFIELD, the Council adjourned without day.



STATE OF VERMONT,  
IN COUNCIL OF CENSORS,  
Montpelier, October 22, A. D. 1869. }

I hereby certify that the foregoing is a true record of the proceedings of the Council of Censors, elected by the freemen of the State of Vermont, on the last Wednesday of March, A. D. 1869, at all their sessions.

Attest, ARTHUR CULVER, Secretary.













